

vided, that the sum of \$100,000 shall be, and is hereby set apart specifically out of such proceeds for the purpose of placing in full and active operation the iron furnaces in the penitentiary at Rusk.

Sec. 6. The fact that there now exists no law providing for the means to complete the railroad owned by the State to the town of Palestine, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

SENTER,
MURRAY,
HUME.

PETITIONS AND MEMORIALS.

By Senator Weinert:

Seguin, Texas, April-21, 1909.

We, the undersigned constituents of the Hon. F. C. Weinert, Senator from this senatorial district, desire to express our confidence in the judgment and ability of our Senator, and to declare that we have full faith in his unswerving Democracy, his allegiance to the party tenets, and his unquestionable capacity to interpret them. We desire to offer no instructions to him upon pending legislation, because we elected him seeking to avail ourselves of his wisdom and his capacity to protect and further our interests and those of our great State. We believe in legislation providing for safe, wise and conservative banking institutions in this State, and that the party's principles as announced in its platform should be a guide to its representatives; but in enacting these principles into law we believe it unsafe and unwise to ask our representatives to yield their interpretation of platform principles, and we reiterate our reliance upon the capacity of our Senator to wisely exercise his judgment in seeking to carry out the party's principles on this, as on all other questions.

Numerously signed.

By Senator Meachum:

To the Hon. McDonald Meachum, Member of the Senate of Texas, now in Session.

We, the undersigned citizens of Grimes county and your supporters, believing you at all times receive the views of your constituents with an eye single

to legislation to the best interest of the public, and especially to your district, respectfully represent: That we feel it our duty to advise you that we are opposed to the bill now pending before the lower House to build a State railroad and issue bonds therefor and the State School Board ordered to buy these bonds with the permanent school fund. We believe this a departure from the policy of our forefathers and a dangerous investment and a speculation on that sacred fund; therefore, as your supporters, we earnestly request that in your usual vigor you oppose the passage of such a bill should it reach the Senate.

Numerously signed.

TWELFTH DAY.

Senate Chamber,
Austin, Texas,

Thursday, April 29, 1909.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

The roll was called, a quorum being present, the following Senators answering to their names:

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Stokes.
Cofer.	Terrell of Bowie.
Greer.	Terrell of McLennan.
Hayter.	Thomas.
Holsey.	Veale.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.
Meachum.	

Absent.

Harper.	Real.
Hudspeth.	Senter.
Perkins.	Sturgeon.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Weinert, the same was dispensed with.

Morning call concluded.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 29, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to

inform the Senate that the House has passed the following bills:

House bill No. 40, A bill to be entitled "An Act to further and better define the status and title of the public free school lands heretofore granted to the several counties of the State of Texas for public free school purposes and the proceeds from the sales, leasing or renting of such lands; to provide for the investigation by the Superintendent of Public Instruction of all lands heretofore granted to the several counties in this State for public free school purposes; the disposition made of said lands or any part thereof, and the proceeds of said lands; to authorize the institution of suit or suits in the name of the State for the use and benefit of the public free school fund of the counties of this State for the recovery of all such lands illegally sold, or otherwise unlawfully disposed of, and to restore and secure to the public free school fund of the several counties of the State the said lands and proceeds of all such lands, which have been in any manner illegally sold, misused, misapplied or misappropriated; providing for the investment of such proceeds and the safe keeping and deposit thereof; defining misappropriation and misapplication of the proceeds of all such lands or of such funds; authorizing the sale of said land, and fixing a penalty for diverting and misappropriating and misusing such proceeds or funds; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

House bill No. 14, A bill to be entitled "An Act to grant a charter to the city of Amarillo, Potter county, Texas, repealing all laws or parts of laws in conflict herewith, and declaring an emergency."

Senate bill No. 27, A bill to be entitled "An Act to amend an act creating an independent school district to be known as Corpus Christi Independent School District," etc.

House bill No. 48, A bill to be entitled "An Act to amend Chapter 69 and Chapter 124 of the Acts of the Regular Session of the Thirtieth Legislature of the State of Texas, transferring the county of Bee from the Twenty-fourth Judicial District to the Thirty-sixth Judicial District, and to change the time of holding district court in said Twenty-fourth and Thirty-sixth Judicial Districts."

House bill No. 41, A bill to be entitled "An Act to provide for appeal upon bill

of exceptions, and prescribing the procedure in such cases."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

BILLS READ AND REFERRED.

The Chair (Lieutenant Governor Davidson) had referred, after their captions had been read, the following House bills (see above House message for caption of):

House bill No. 14, referred to Committee on Towns and City Corporations.

House bill No. 48, referred to Committee on Judicial Districts.

House bill No. 41, referred to Judiciary Committee No. 1.

House bill No. 40, referred to Committee on Public Land and Land Office.

HOUSE BILL NO. 2.

The Chair laid before the Senate, on second reading and regular order,

House bill No. 2, A bill to be entitled "An Act to provide for the more effective regulation and supervision of banks of deposit or discount, or both of deposit and discount and banking and trust companies in this State, incorporated under and by virtue of the provisions of Chapter 10 of the Acts of the First Called Session of the Twentieth Legislature of the State of Texas and known as the State Banking Law; providing additional safeguards for the protection of the depositors and other creditors of such institutions; providing that all institutions shall be mutually liable pro rata within certain limitations for the payment of the liabilities of each such institution to its guaranteed depositors, and defining the guaranteed deposits and the guaranteed depositors of such institutions; providing for the creation of a State Banking Board, and describing its powers and duties; prescribing additional powers and duties of the Commissioner of Insurance and Banking, and providing for the issuance by such Commissioner of all charters for such institutions; requiring all such institutions to hereafter hold certificates of authority to transact the banking business; providing for the creation of the State bank guaranty fund, and for its maintenance and use in the payment of guaranteed depositors of such institutions; providing for the making good of any impairment of the capital stock of such in-

stitutions; prescribing the conditions upon which it shall be the duty of the Commissioner of Insurance and Banking or the State Banking Board to close and take possession of the property and business of such institutions, and providing for their liquidation, and for the payment of their liabilities to their guaranteed depositors out of the State bank guaranty fund; providing the amount of capital stock required to be maintained by such institutions in proportion to their deposits; providing for frequent and thorough examination of State banks and other banks subject by law to examination and supervision, and for the appointment of the necessary number of examiners for that purpose, and providing for their compensation; prescribing the terms upon which State banks may make loans upon the collateral security of their own shares of stock; limiting the indebtedness of State banks; regulating the pledging of their securities as collateral for money borrowed, and the making of loans upon the collateral security of shares of stock in other banking corporations; prescribing the time within which the loans of State banks shall mature; prescribing an oath to be taken by directors of State banks; and requiring reports to be made at regular meetings of the board of loans and discounts made during the preceding month; making it a penal offense for officers or employees of State banks to embezzle, abstract or wilfully misapply its money, funds or securities, or to issue evidences of indebtedness or bind such banks for the payment of any indebtedness without the authority of the board of directors, or to aid, or abet, any such offense, or for an active officer of a State bank to unlawfully borrow any of its funds, or for an officer or director to loan or consent to the loaning of its funds unlawfully to an active officer, or for the Commissioner of Insurance and Banking, or any examiner or special agent, to fail and refuse to give notice of violations of the criminal provisions of the laws of this State coming to their attention or for any officer, director, agent or employee of any State bank to knowingly and wilfully do any act, as such, expressly forbidden by law, or to omit to perform any duty imposed by law, or for any officer or director of a State bank to make or concur in, or consent to, the making of any loan not authorized by law, or for any officer, clerk or agent of any State bank to certify any check before the amount thereof shall have been regularly entered to the credit of the drawer thereof;

providing that National banking associations shall avail themselves of certain provisions of this act, and providing that any bank or trust company created by virtue of a special act of the Legislature of Texas under certain conditions may avail itself of the provisions of this act; to prohibit any officer or employee from becoming indebted to or financially interested, other than as a depositor, in any State bank or State banking and trust company, and providing for penalties for violations; and providing for the establishment of savings departments and for their regulation, and generally defining offenses against the banking laws of this State, and prescribing penalties for all such offenses so defined, and declaring an emergency."

Senator Alexander moved that the above bill be laid on the table subject to call.

There being an adverse majority committee report and a favorable minority committee report on the bill,

Senator Meachum moved, as a substitute, for Senator Alexander's motion to adopt the minority committee report.

Senator Murray made the point of order on Senator Meachum's motion that a motion to lay a bill on the table subject to call could not be substituted.

The Chair sustained the point of order. Action then recurred on the motion by Senator Alexander, which motion was adopted by the following vote:

Yeas—16.

Adams.	Peeler.
Alexander.	Terrell of Bowie.
Hayter.	Terrell of
Hume.	McLennan.
Kellie.	Ward.
Masterson.	Watson.
Meachum.	Weinert.
Murray.	Willacy.
Paulus.	

Nays—8.

Brachfield.	Mayfield.
Bryan.	Stokes.
Cofer.	Thomas.
Holsey.	Veale.

Absent.

Greer.	Real.
Harper.	Senter.
Hudspeth.	Sturgeon.
Perkins.	

SENATE BILL NO. 4.

The Chair laid before the Senate, on second reading and regular order,

Senate bill No. 4, A bill to be entitled "An Act to create a State Banking Board; to define its powers and duties; to provide for a depositors' guaranty fund under the supervision of said board, and fixing the conditions and terms by which banks and trust companies may avail their depositors of the benefit of said fund; fixing the amounts to be paid for the creation of said fund and the manner and time of payments; fixing the manner of management and administration of said fund; authorizing certain advertising privileges to such banks, and providing a penalty for the unauthorized use of such advertising privileges; providing for savings departments for State banks and fixing penalties for the violation of this act, and declaring an emergency."

The bill was read, and there being an adverse majority committee report and a favorable minority committee report,

Senator Alexander moved to substitute the minority committee report for the majority committee report, which motion was adopted by the following vote:

Yeas—27.

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Senter.
Cofer.	Stokes.
Greer.	Terrell of Bowle.
Harper.	Terrell of McLennan.
Hayter.	Thomas.
Holsey.	Veale.
Hume.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Meachum.	Willacy.

Absent.

Hudspeth.	Sturgeon.
Real.	

PAIRED.

Senator Kellie (present), who would vote "yea," with Senator Perkins (absent), who would vote "nay."

Senator Terrell of McLennan offered the following amendment:

Amend the bill by striking out all after the words "A bill," and insert the following:

A BILL

To be entitled

An Act to provide for the regulation and supervision of banking corporations; providing for the securing of depositors of such corporations; pro-

viding for a depositors' guaranty fund, and fixing the terms by which banks and trust companies may avail their depositors of the benefits of said fund; providing for bonds for securing deposits, and providing that all banking corporations which avail their depositors of the protection provided for by this act, either by the depositors' guaranty fund or by bond at their option; providing that all National banks transacting business in this State may, at their option, voluntarily avail their depositors of the protection afforded by this act; amending Section 44, Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas; prescribing additional regulations and safeguards for the protection of depositors; prescribing the powers and duties of the Commissioner of Insurance and Banking; creating a State Banking Board and prescribing its powers and duties; providing for penalties for the violation of this act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Each and every corporation heretofore incorporated, or which may hereafter be incorporated under the laws of this State with banking and discount privileges, and each banking and trust company in this State incorporated, or that may hereafter be incorporated under the provisions of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas, and known as the State Banking Law, shall at its option protect its depositors in the manner hereinafter prescribed, either by availing itself of the depositors' guaranty fund hereinafter provided for, or by the depositors' bond security system hereinafter set forth.

Sec. 2: A State Banking Board is hereby created, which board shall be composed of the Governor, Lieutenant Governor, Commissioner of Insurance and Banking, Comptroller and Treasurer of this State. Said board shall have the control and management of the depositors' guaranty fund hereinafter provided for, and shall have the power to adopt all necessary rules and regulations, in harmony with this act, for the management of said fund, said board shall have general supervision and control of the depositors' bond security system herein provided for, and

shall have the power of regulation, control and supervision of all State banking corporations and trust companies as hereinafter provided in this act.

Sec. 3. Each and every bank and trust company mentioned in Section 1 of this act shall have the right and privilege, at its option, to secure its depositors by the manner, methods and under the terms, provisions and regulations as set forth in this act for the depositors' guaranty fund or the bond security system; provided, that all such banks and trust companies shall secure their deposits by one of said plans on January 1, 1910; and provided further, that such option shall be exercised on or before December 1, 1909, and the president or cashier of such bank shall notify the Commissioner of Insurance and Banking by registered mail of such action.

Sec. 4. Any such bank or trust company which shall elect to secure its deposits under the depositors' guaranty fund provided for by this act, shall pay to said banking board, providing its application is approved by said board as hereinafter prescribed in Section 7 of this act, on January 1, 1910, 1 per cent of its daily average non-interest bearing deposits, for the preceding year not including United States, State or other public funds, if otherwise secured, nor deposits of other banks and trust companies, for the purpose of creating a depositors' guaranty fund. Annually, after the first payment to said fund, each bank and trust company subject to the provisions of this act shall pay to said board one-fourth of 1 per cent of its daily average deposits, as above defined, which amount shall be added to said guaranty fund; provided, that when the amount available in said guaranty fund shall reach the sum of two million dollars the Bank Commissioner shall notify all bank and trust companies subject to this act, at least thirty days before the next annual payment and thereafter the banks and trust companies participating shall not pay any further amount into said fund until said fund be depleted, and in the event of the depletion of said fund from any cause so that it falls below two million dollars, said board shall have authority to require the payment for the current year of the full 1 per cent of such average deposits, or such part thereof as may be necessary to restore said fund to the maximum above named, but no bank or trust company coming under the provisions of this act shall ever be required to pay more than

1 per cent of said average daily deposits for any one year; providing further, that first payments herein provided for shall be made to said board without reference to said maximum sum.

Sec. 5. The fund provided for herein shall be deposited with the State Treasurer and a separate account shall be kept thereof, and it shall be paid out on warrant of the Comptroller based on vouchers issued as may be prescribed by the said banking board, and said fund shall never be diverted from the purpose herein specified. The Treasurer may and he shall on order of said banking board, keep 25 per cent of the amount of said guaranty fund deposited in State depositories, subject to demand call of said board; provided, that 50 per cent of all payments required may be held by guaranteed banks as demand deposits, to the credit of said banking board.

Sec. 6. State bank and trust companies organized subsequent to the taking effect of this law, or approval of their applications as provided for in Section 7 of this act, shall pay into said guaranty fund 2 per cent of the amount of their capital stock, which amount shall constitute a credit fund, subject to adjustment on the basis of their deposits as provided for other banks now existing, at the end of one year; provided, however, that said payment shall not be required of banks and trust companies formed by the reorganization or consolidation of banks that have previously complied with the terms of this act.

Sec. 7. The State Banking Board shall admit to the benefits and protection of this act only such banks and trust companies as in their opinion are solvent and properly officered and conducted, and said board shall prescribe the form of application and statement which shall be made by each and every bank and trust company and which shall be sworn to by two of the chief officers of the bank, blank copies of which application and statement shall be mailed to each State bank and trust company in this State at least ten days before this act requires the initial payment, and which shall be filled out, signed, sworn to and returned promptly to said board, and such copies shall be mailed to any other bank within this State on request. Should said board decline the application of any bank or trust company it shall state the grounds of such declination to such institution

and whether the objection can be removed, and the condition thereof.

Sec. 8. Any national bank in this State may voluntarily avail its depositors of the protection of the depositors' guaranty fund, upon the same terms, payments, conditions and in the same manner as herein provided for State banks.

Sec. 9. Whenever any State bank or trust company shall become insolvent and shall voluntarily, or by law, or in any manner as provided in Chapter 10, Acts of the First Called Session of the Twenty-ninth Legislature, come into the hands of the Commissioner of Insurance and Banking, he may proceed to wind up its affairs, either through a receiver or through some competent person, who shall give such bond as may be required by the board, payable to the board for the faithful performance of all duties imposed upon him. Said bond may be recovered upon for the benefit of said guaranty fund.

Sec. 10. In the event the Commissioner of Insurance and Banking shall take possession of any bank or trust company, subject to this act, as herein provided, the depositors of said bank or trust company, as specified in Section 4 of this act, shall be paid in full out of the cash in said bank or trust company and that can be made immediately available from such bank, and the remainder shall be paid out of the depositors' guaranty fund through the said board in the event the cash available in said institution shall be insufficient; provided, that deposits on which interest is being paid by said bank, its officers or stockholders, to the depositor and deposits otherwise secured, shall not be insured under this act but shall only receive the pro rata amount which may be realized from the assets, resources, and collections of and from such banks or trust company, its stockholders or directors.

Sec. 11. The State shall have, for the benefit of the depositors' guaranty fund, a first lien upon all the assets of such bank or trust company, and all liabilities owing or accruing to such bank or trust company; provided, however, that any deposits on which said bank was paying interest and any other deposits not insured under this act and which are entitled to share in said assets, shall share in the dividends and proceeds of such assets and collections pro rata or as may be provided by law.

Sec. 12. In the event the depositors' guaranty fund, or any part thereof, shall be used by said banking board to

pay off the depositors of a national bank which has accepted the provisions of this law, then said banking board shall receive from the receiver or other officer in charge of said bank the pro rata share of the proceeds of the assets and collections which would be due to said depositors to the amount so paid by the banking board.

Sec. 13. A proper certificate, showing a compliance with this act, shall be issued by the Commissioner of Insurance and Banking, to all banks and trust companies entitled thereto, which certificate shall be posted in a conspicuous place in said bank or trust company. Such bank or trust company may print or engrave upon its stationery and advertisements words to the effect that its depositors are protected by the depositors' guaranty fund of the State of Texas, and any person, or any officer or director of any bank or trust company engraving or printing a false statement as to this fact, or using such false statement upon its stationery or advertisements, shall be guilty of a felony, and shall be punished by imprisonment in the State penitentiary not less than two nor more than five years on conviction thereof.

Sec. 14. Any State bank or banking and trust company, incorporated under the laws of this State, desiring to maintain a savings department or to use or continue to use the word "savings" as part of its corporate name, or in or as a part of any sign or advertisement, or in or upon any stationery used or to be used by it, shall establish and maintain a savings department in compliance with the provisions of this section. Such savings department may be established by the board of directors adopting a resolution providing therefor, at a regular meeting, which shall contain a copy of this section, and a certified copy of which shall be filed in the office of the Commissioner of Insurance and Banking, and also recorded in the office of the county clerk of the county in which such bank or banking and trust company is located; such copies to be so filed by banks or banking and trust companies maintaining savings departments and using the word "savings" as above provided at the time this act shall take effect, and which desire to continue to do so, within ninety days from the time this act shall take effect, and which desire to continue to do so, within ninety days from the time this act shall take effect, and to be filed by banks desiring to establish such savings departments after this act shall

take effect prior to the establishment of such department. All banks or banking and trust companies establishing or maintaining a savings department or using the word "savings" as above provided after this act shall take effect, or which, having such departments or so using the word "savings" at the time this act shall take effect shall continue to maintain such departments or to so use the word "savings" more than ninety days thereafter shall keep the business of such department entirely separate and distinct from the general business of such bank or banking and trust company and shall keep all moneys received as such savings deposits and the funds and securities in which the same may be invested, at all times segregated from and unmingled with the other moneys and funds of the bank or banking and trust company, and may invest not more than 85 per cent of the total amount of such savings deposits in any of the following classes of securities, and not otherwise, to wit:

1. In bonds or interest-bearing notes or obligations of the United States or of those for which the faith of the United States is pledged for the payment of principal and interest.

2. In bonds of any city, county, town or school district or other subdivision of this State, now organized or which may hereafter be organized, and which is now or may hereafter be authorized to issue bonds under the Constitution and laws of this State, which has not defaulted in the payment of any part of either principal or interest thereof, within five years previous to making such investments.

3. In bonds of the State of Texas or of any State of the Union that have not within the last five years previous to making such investment defaulted in the payment of any part of either principal or interest thereof.

4. In the first mortgage bonds of any steam or electric railroad, the income of which is sufficient to pay all operating expenses and fixed charges, which has its domicile in the State.

5. In bonds or notes secured by first mortgage, deed of trust or other valid first lien on unincumbered improved real estate to run for a term not longer than ten years, situated in the State, worth at least twice the amount loaned thereon, such bonds or notes to be always accompanied by a complete abstract of title to the property mortgaged and an attorney's certificate or title insurance policy in some company incorporated under the laws of this

State, certifying said bonds or notes to be first lien on the land mortgaged.

It shall be the duty of the directors of such bank or banking and trust company, as soon as practicable, to invest the moneys and funds of such savings department, by purchase or otherwise, in the securities above described, and from time to time to sell and reinvest the proceeds of such investments, but for the purpose of meeting current demands in excess of the receipt, any of the securities may be sold, or taken up and replaced in cash, by the bank or banking and trust company out of its general fund, and there shall be kept on hand at all times not less than 15 per cent of the whole amount of such deposits in actual cash, in such savings department.

It shall be lawful to require sixty days' written notice of the withdrawal of any savings deposits, as provided for in this section, at the option of the bank or banking and trust company, in case of the insolvency or liquidation of any State bank or banking or trust company which shall establish or maintain a savings department under the terms of this section, its savings depositors shall be first paid, and the remainder, after they have been paid in full, shall be applied in the payment of claims of general creditors. It shall be the duty of the president or vice president and the cashier of each State bank or banking and trust company maintaining a savings department, under the provisions of this section, to file with the Commissioner of Insurance and Banking not less than ten days after the first calendar month, a statement of the assets and liabilities of such savings department, upon a form to be prescribed by the Commissioner of Insurance and Banking, and it shall be unlawful for any officer of any State bank or banking and trust company to receive or assent to the receiving of any savings deposits, when the last preceding monthly statement, as herein provided for, is not conspicuously posted in the office from where its business is transacted.

The directors of any bank or banking and trust company establishing or maintaining or continuing to maintain a savings department may provide that such rate of interest shall be paid on the savings deposits as it may see fit, payable at such periods and upon such terms and conditions as may be reasonable; provided, that in any case the earnings of such savings department are sufficient to pay any interest due

upon any savings deposits such interest or the deficiency therein shall be paid by the bank or banking and trust company out of its general funds. At the end of any period for which such bank or banking and trust company may lawfully declare a dividend upon its stock, it shall be proper to transfer to the general fund of such bank or banking and trust company all accumulated earnings of the said savings department after the payment or credit of all interest due on accrued savings deposits, and the legitimate expenses of such department have been provided for. All such savings departments shall be governed by the terms and provisions of this act so far as same are applicable and are not in conflict with the special provisions of this section, and shall also be governed by such provisions of this section and shall also be governed by such provisions of the laws of this State applicable to saving banks as are not in conflict with any provisions of this act or of this section, and such reasonable rules and regulations for the control of such savings departments may be adopted and put in force by the board of directors at any regular meeting of the stockholders at any annual meeting; provided, that such rules and regulations shall not become effective until they have been submitted to the Commissioner of Insurance and Banking and by him approved.

It shall be unlawful for any officer or director of any bank or banking and trust company which shall establish or maintain or continue to maintain a savings department or which shall use or continue to use the word "savings" as provided in this section to knowingly misappropriate any moneys or funds belonging to such savings department or to use or consent to the use of any such moneys or funds otherwise than for the payment of lawful demands of savings depositors; and in the making of such investments as are prescribed in this section, and in the payment of such dividends to the shareholders as are allowed by the law to be paid therefrom, or to borrow any of the funds belonging to such savings department, or to in any way be an obligor for moneys loaned by or borrowed of such savings department, or to receive or accept, directly or indirectly, any commission, brokerage or other valuable thing or favor of any kind by reason or on account of any loan or investment made out of the funds of such savings department, or to sell to such savings de-

partment any securities or other investment, or wilfully and knowingly do or perform any act or transaction, by or as a result of which at any time the assets of such savings department, including cash, shall not at least equal in amount the deposits in such savings department, at least 15 per cent of which shall be actual cash in such savings department.

Any officer or director of any State bank or banking and trust company who shall knowingly violate the provisions of this section shall be deemed guilty of a felony and shall, upon conviction, be punished by imprisonment in the State penitentiary for a term of not less than one nor more than five years.

Sec. 15. In the event of the voluntary liquidation of any bank or trust company operating under the provisions of the depositors' guaranty fund, when it shall be made to appear to the State Banking Board that all depositors have been paid in full, said board shall return to such bank or trust company the pro rata part paid by it into such fund then unused.

Sec. 16. Each and every State bank or trust company now or hereafter incorporated under the laws of this State, which shall elect to come under the provisions of the bond security system of this act, shall on January 1, 1910, and annually thereafter file with the Commissioner of Insurance and Banking and his successors in office for and on behalf of the lawful depositors of such banks a bond. Such bond may be executed by individuals; provided, that in any event not less than three such individuals of sound financial responsibility shall execute the same; provided, also, that such individual sureties must be residents of the State of Texas, and must own unencumbered property situated within the State over and above all lawful exemptions, sufficient to insure their solvency upon such bond in accordance with the provisions of this act; and provided further, that in the event such bond is executed by individual surety, each of said sureties shall have the right to designate the specific amount for which he shall be held liable on such bond; provided further, that in any event such bond shall be approved by the county judge of such county in which the bank receiving deposits and making such bond is situated, and such approval by said county judge shall be made a matter of record upon the minutes of the commissioners court, and such bond shall be further subject to the approval of the Attorney General, and

by him delivered to the Commissioner of Insurance and Banking, and by him filed in his office and recorded in a book to be kept for that purpose; such bond shall be executed in respective amounts of its capital stock, as follows, to-wit:

All such bond security banks having a capital stock of fifty thousand dollars (\$50,000) and less, shall execute such bond in an amount equal to double the amount of its capital stock. All such banks having a capital stock in excess of fifty thousand dollars (\$50,000) and not more than one hundred thousand dollars (\$100,000) shall execute such bond in an amount equal to one and one-half times the amount of its capital stock. All such bond security banks having a capital stock in excess of one hundred thousand dollars (\$100,000) shall execute such bond in an amount equal to the amount of its capital stock. It is further provided herein that any such banks mentioned in this section whose capital stock shall be in excess of one hundred thousand dollars (\$100,000) and which, at the time of its defaultation of the payment of its deposits as hereinafter provided, shall have in its possession and ownership good and sufficient exclusive real estate first mortgages or vendors' lien, or good and lawful interest-bearing National, State, county, municipal, school district bonds, or bonds of any political subdivision authorized by law to issue the same, or either of them, which shall be approved by the Commissioner of Insurance and Banking, then the liability of any such bank as principal and its sureties upon any such bond as herein provided for shall be reduced proportionately to the extent of the approved cash value of such real estate mortgages, or liens, or National, State, county, municipal, school district or other bonds, as may be determined by the Commissioner of Insurance and Banking at the time of the accrued liability upon such bonds so executed by such bond security banks for the purpose of securing its depositors.

In the event any person, firm or corporation, or association of persons, executing the bond or guaranty herein provided for as sureties for any such bank shall transfer such portion of his or its property within four months prior to the notice herein provided for in case of the default of the deposits lawfully demanded as that his remaining property over and above all lawful exemptions would be insufficient to meet the requirements of his respective liability upon said bond, then, and in such

event, such transfer of property shall be void as to any unpaid balance due and payable under said bond of guaranty, and there shall be and is hereby created a preferred lien upon the property so undertaken to be transferred in favor of the Commissioner of Insurance and Banking as trustee for and on behalf of the lawful depositors of any such bond security bank so making default in the payment of its deposits to the extent of any portion of any unpaid legal liability due and owing upon such bond; provided that the satisfaction of such bond as provided for in this act and the terms of such bond shall satisfy and discharge such preferred lien hereinabove provided for; provided, that if any surety upon any such bond provided for in this act, who may desire to do so, shall deposit with the State Treasurer unincumbered exclusive real estate mortgage or other liens, or National, State, county, municipal, school district bonds or bonds of any political subdivision authorized by law to issue the same, or either of them, having an actual cash market value, subject to the approval of the Commissioner of Insurance and Banking equal in amount to the liability of such surety on such bond, said Commissioner of Insurance and Banking is authorized to convert such securities so deposited, or such part thereof as may be necessary, into cash money, which shall be by him applied in satisfaction of the liability of such surety upon such bond without any legal process therefor; then, and in that event, such preference lien shall not thereafter exist. After the liability of any surety making such deposit shall expire such securities, or any portion thereof, remaining on deposit with the State Treasurer shall be returned to such surety upon the certificate of the Commissioner of Insurance and Banking that such liability has so expired, and it shall be the duty of such Commissioner to account to such surety for any unused portion of the cash resulting from the conversion of such securities, or any portion thereof, into cash as above provided. The bond provided for in this act shall be deemed and be held cumulative of all other laws and constitutional provisions fixing the liability of stockholders for the obligations and indebtedness of any such bank.

Sec. 17. The bond provided for in the preceding section of this act shall be in form and substance as follows:

STATE OF TEXAS,

COUNTY OF.....

Know all Men by These Presents:

That we,, as principal, and, and, as sureties, are firmly bound unto the Commissioner of Insurance and Banking of the State of Texas and his successors in office as trustee for the benefit of all lawful depositors of the bank or trust company in the sum of dollars, payable as provided for by the laws of Texas at the time of the execution thereof, conditioned that the above bounden will pay upon demand to the Commissioner of Insurance and Banking of the State of Texas, as trustees for all lawful depositors in said bank, the full amount of money due them and each of them at the time of the default or failure to pay any moneys due such depositors such default or failure occurring during the period of one year from the date this bond is approved and becomes effective.

Witness our hands at county, Texas, this day of, A. D.

As principal.....

As surety.....

As surety.....

(In case sureties bind themselves for limited amounts they shall state opposite their signature "to be bound as provided by law for dollars, and no more.")

It is further provided in this section that upon the payment of any sum made obligatory by reason of the terms of this act, any surety herein making or participating in such payment shall thereby be subrogated to the rights of depositors, and shall be entitled to assert such right in accordance with the laws of this State, secondary and subject to the rights of the depositors of whose benefit such payments are made.

Sec. 18. The Commissioner of Insurance and Banking shall be entitled to charge a fee not to exceed twenty dollars (\$20.00) to be paid by the bank executing the bonds as hereinabove provided for examination of any such bond provided for in Section 16 of this act; provided, that in case he shall approve and file same, no additional amount shall be charged for such approval and filing. Out of the proceeds of the fee the Commissioner shall defray the expenses of investigating the solvency of

the sureties upon such bond if any such expenses are incurred, and the remainder thereof shall be paid into the general revenue fund of this State.

Sec. 19. The security provided for by this act to be executed by bond security banks for the benefits of its depositors, may consist of more than one bond, provided, that the total amount of liability upon such bond or bonds so filed shall be equal to the amount provided for in this act. In case of default the sureties under such bond where more than one has been filed, shall be required to contribute pro rata to make good such default; provided, that the amount which shall not be collectible from any such surety by reason of his insolvency, shall be contributed pro rata by all other sureties.

Sec. 20. In the event of the default by any such bond security bank, transacting business or receiving deposits, in the payment of any deposit lawfully due, it shall be the duty of the Commissioner of Insurance and Banking when such default shall be made known to him to report the same forthwith to the Attorney General of the State of Texas, and to give notice to every and all persons who may be obligated by reason of such default, and the conditions of the bond herein provided for and upon the mailing of such notice the full amount of the said bond shall at once become due and payable. And it shall further be the duty of the makers and signers of such bond to pay immediately the full amount of the same according as he may be obligated to the Commissioner of Insurance and Banking or such part thereof as he may demand to be held by him in trust for the depositors of any such bond security bank executing such bond, and in case any such bond security bank shall have on hand as part of its assets, any real estate mortgages, or vendors' lien or any National, State, county, municipal, school district, or other bonds, the Commissioner of Insurance and Banking shall be authorized to take possession of the same and to value them in accordance with the provisions of this act; provided, that such valuation shall not be less than the actual cash market value thereof, and said Commissioner of Insurance and Banking shall be and is hereby authorized to convert such real estate mortgages and vendors' lien and other form of security as herein provided for into actual cash money, to be credited by him upon the liability of the bond hereinbefore provided for in the manner and in the terms as pro-

vided for by this act. All proceeds thus arising herewith from voluntary payment or otherwise, shall be by the Commissioner of Insurance and Banking or a special agent promptly paid in full or pro rata to all unpaid lawful depositors, upon presentation to him of satisfactory proofs of their claim, which proofs shall be received and filed in his office and a record thereof made by him in a book to be kept for that purpose before payment of any such depositors shall be made and approved by him, and a full report of all such claims and payments paid by said Commissioner of Insurance and Banking under oath shall be filed in the office of the county clerk of the county in which such bank is located. In the event any maker or signer as security of such bond or policy of insurance and other guaranty of indemnity shall be a corporation, incorporated under the laws of Texas, and it shall refuse and fail to pay upon demand therefor as hereinbefore provided for the full amount due by it upon such bond, its charter shall thereby become subject to forfeiture, and it shall be the duty of the Attorney General of the State of Texas, upon receiving notice thereof from the Commissioner of Insurance and Banking, to bring suit in the district court of any county in this State which he may elect to forfeit such charter, and upon hearing thereof decree and judgment may be rendered annulling and forfeiting the charter of such corporation.

In the event any maker or signer as surety of such bond shall be a corporation, incorporated elsewhere than in the State of Texas, and transacting business in this State under a permit from the State, and which shall refuse and fail to pay on demand therefor by the Commissioner of Insurance and Banking, as herein provided for, the full amount of its liability upon any such bond, it shall thereupon be the duty of the Commissioner of Insurance and Banking to thereafter suspend the permit of said corporation to transact business in this State, until it shall be shown to his satisfaction that it has fully discharged its liability upon such bonds upon the default thus made.

Sec. 21. In the event such persons, firms, corporation, so executing such bank security bond shall make default in the payment of the same lawfully demanded for a period of fifteen days after such demand and the obligation or such bond is not discharged, it shall be the duty of the Attorney General, or any district or county attorney, acting

at his instance, to bring suit upon such bond in the name of the State of Texas, for the benefit of all persons who may be beneficiary to said bond by reason of its terms and conditions; such suit shall be instituted in the district court of the county where the bond security bank had its principal place of business at the time of its failure, or any county immediately adjacent thereto at the option of the Attorney General. And in any such suit so brought upon any such bond, the Attorney General shall have the right by writ of sequestration, as is provided in the law, except that no bond or affidavit shall be required of the State of Texas before the issuance thereof, to seize and take possession of the property and effects of any such sureties upon such bond of any bond security bank so failing and defaulting in the payment of its deposits when lawfully demanded as hereinbefore provided for. The proceeds collected by any such suit or action shall be distributed by the Commissioner of Insurance and Banking to the depositors entitled thereto in the same manner provided in this act with respect to payments voluntarily made by sureties upon such bonds.

Sec. 22. If at any time it appears to the Commissioner of Insurance and Banking that the bond of any bond security bank, which has elected to come under the provisions of this act, is insufficient, he shall have the authority, and it shall be his duty to require such bond security banks to file new and additional security in an amount sufficient to protect its depositors in accordance with the provisions of this act, as applicable to bond security banks. In the event such bond security banks shall refuse to or fail to comply with such requirements, the Commissioner of Insurance and Banking shall proceed as provided for by law.

Sec. 23. All banks securing their deposits by bond as provided for in this act are hereby authorized to use the following words upon their advertisements: "The deposits of this bank are protected by security bonds under the laws of this State." Any officer, director or stockholder of any bank or trust company coming under the bond security system herein provided, who shall use or permit the use of any advertisement that the deposits of any such banks are secured except as permitted in this section shall be guilty of a felony and on conviction thereof shall be punished by confinement in the penitentiary for not less than two nor more than five years.

Sec. 24. Any national bank in this State may voluntarily avail its depositors of the protection of the bond security system herein provided for State banks.

Sec. 25. Section 44 of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as to hereafter read as follows:

"Section 44. The Commissioner of Insurance and Banking shall from time to time appoint such number of State bank examiners as may be necessary to make the examinations of banking corporations required by law, which number shall at no time exceed one for each forty banking corporations then subject to examination under the laws of this State. As full compensation for the performance of the duties of examiners, each person so appointed shall be entitled to receive a salary of \$2000 per annum, besides necessary traveling expenses. An itemized account of such expenses shall be rendered monthly under oath, by each examiner and shall be approved by the Commissioner."

Sec. 26. Every president, director, cashier, teller, clerk or agent of any State bank who embezzles, abstracts or wilfully misapplies any of the moneys, funds or credits of such State bank, or who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree, or who makes any false entry in any book, report or statement of such State bank, with intent in either case to defraud such State bank, or any other corporation, body politic, or any individual person, firm or association, or to deceive any officer of such State bank, the Commissioner of Insurance and Banking, or any examiner or special agent, authorized by law to examine the affairs of any such State bank, and every person who, with like intent, aids or abets any officer, clerk or agent in any violation of this section, shall be deemed guilty of a felony, and shall, upon conviction, be imprisoned in the State penitentiary for a term of not less than five years nor more than ten years.

Sec. 27. Any director of a State bank who shall either directly or indirectly borrow any of the funds of such bank in excess of 10 per cent of its capital and surplus without the consent of a majority of the directors of the bank first having been obtained and

made a matter of record at a regular meeting of the board, or without the written consent of such majority of the directors other than the borrowers being jointly executed by them and filed in the archives of such bank before the loan is made, and any officer of a State bank who shall knowingly become indebted to such bank, directly or indirectly, in any sum whatever, without the consent of a majority of the board other than the borrower, obtained or recorded, or filed in like manner, and any officer or director of any such bank who shall knowingly loan or assent to the loaning of any of its funds to any officer, or any of its funds to any director in excess of 10 per cent of its capital and surplus without such consent being first obtained and recorded or filed, or who shall knowingly permit any such officer or director to become indebted to the bank or liable to it without such consent, shall be deemed guilty of a felony and shall be punished by imprisonment in the State penitentiary for a term of not less than two years, upon conviction thereof.

Sec. 28. Any officer, director or employe of any State bank or trust company who knowingly or wilfully omits to perform any duty imposed upon him by law, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment in the county jail for a term of not less than thirty nor more than ninety days, or by both such fine and imprisonment.

Sec. 29. The fact that there is no law in the State providing for a fund for the protection of depositors in banks and trust companies creates an emergency which requires that the constitutional rule that bills be read on three several days be suspended, and this act take effect from and after its passage, and it is so enacted.

TERRELL of McLennan,
ALEXANDER.

Senator Mayfield offered the following substitute for the amendment:

Be it enacted by the Legislature of the State of Texas:

Section 1. A State Banking Board is hereby created which shall consist of the Commissioner of Insurance and Banking, hereinafter referred to as the Commissioner of Banking, and two citizens of this State who shall not be officers or directors of any bank or trust company taking advantage of this act,

to be appointed by the Governor, which latter two members of said board shall receive as compensation for such services the sum of \$10 per day for each day while actually engaged in discharge of his duties as a member of said board. Said board shall have control, management and directions of the depositors' security fund herein provided for and shall have power and it is made their duty to adopt and promulgate from time to time rules, regulations and requirements as may be deemed necessary or proper for the accumulation, payment, management and control and disposition of said fund and to carry out the provisions and intent of their land and inconsistent herewith.

Sec. 2. It is the intent of this act to provide for the creation of a fund to be known as the "depositors' security fund," which shall be ascertained and deemed sufficient to pay probable losses of the lawful depositors of State banks and trust companies in this State, that elect to come under the provisions of this act providing for a "depositors' security fund," and also, to provide for the securing of deposits by the execution of a bond for the purpose and in the manner herein provided for. It is not intended by this act to hold or make liable any State bank or trust company that avails itself of the "depositors' guaranty fund" for the losses to depositors occurring from failures of other State banks or trust companies, but only to the extent and by the contribution to said State security fund, as provided in this act. Each and every bank of deposit and banking and trust company or trust company availing itself of the "depositors' security fund," receiving deposits now or hereafter organized under the laws of this State shall be liable in the manner and proportion and to the extent hereafter provided to pay to the "depositors' security fund" such premiums or sums as may be ascertained to be sufficient to constitute a fund to cover the probable losses to depositors from the failure or failures of State banks or trust companies that shall avail themselves of the "depositors' security fund." Said premiums or sums to be annual premiums or sums and to be fixed and stated and to be paid at fixed and stated times. The said fund is to be accumulated and said premiums are to be ascertained and fixed and paid in the manner hereinafter provided. Said fund is to be created and accumulated by and under the direction of said State Banking Board from annual premiums to be paid

by the several State banks and trust companies that elect to come under the provisions of this act providing a "depositors' security fund" and based upon their average lawful deposits and equitably and justly pro rated amongst the several banks and trust companies organized under the laws of this State, that shall avail themselves of the "depositors' security fund."

Sec. 3. Each and every State bank and trust company that elects to come under the provisions of this act providing a depositors' security fund, shall pay into said fund on or by the first day of January, 1910, in such manner as the State board may provide, a sum equal to one-half of one per cent of its daily average lawful deposits for the year 1909, not including United States, State or other public funds otherwise secured, nor deposits of other banks and trust companies, but including savings deposits unsecured and not bearing interest exceeding 5 per cent per annum. And all subsequent annual premiums shall be payable by the first day of January of each year and shall be the premiums or payments for the year preceding, and shall be based upon its daily average lawful deposits of the preceding year. Each and every State bank and trust company organized after the first day of January, 1910, that elects to come under the provisions of this act providing a "depositors' security fund" shall by the first day of January next after its organization pay into said fund one-half of one per cent of its daily average lawful deposits of the year of its organization and shall thereafter pay the annual premium or make payments to said fund in like manner as herein required of all State banks and trust companies that avail themselves of the provisions of this act creating the "depositors' security fund." All premiums or payments to said fund due or owing any State bank or trust company to said fund shall constitute a preference claim or lien upon the assets of said bank and trust company and the same shall apply to any bank or trust company or banking corporation which may have failed while due or owing any such premiums or payment either for that or any previous year.

Sec. 4. Said banking board shall as soon after its organization as is practicable make a full investigation and ascertain and determine after due investigation what sums or premiums paid annually upon the daily average lawful deposits of the State banks and trust companies protected by the "de-

positors' security fund" as provided herein, will create and provide a fund deemed sufficient to pay the probable losses sustained by the depositors of such bank and trust companies that shall avail themselves of the "depositors' security fund" from any failures of such banks and trust companies. In ascertaining and fixing such annual premiums or payments, said banking board shall take a sufficient given period of years and from all data and information available shall determine what sum or fund will cover the probable losses to the depositors from failure of State banks and trust companies availing themselves of the "depositors' security fund" during such period of years, and said board shall ascertain, determine and fix an annual premium upon the lawful deposits of such State banks and trust companies availing themselves of the "depositors' security fund," as when collected will create and provide a fund which will cover the probable losses accruing to such depositors from the failure of the State banks and trust companies availing themselves of the "depositors' security fund," ascertained and determined by said board; which annual premiums or payments as ascertained and established shall be paid by every bank and trust company electing to come under the provisions of this act providing a "depositors' security fund," ratable in proportion to its daily average lawful deposits covered by this act; provided no bank or trust company availing itself of the "depositors' security fund" shall be required to pay during any one year any sum created or in excess of the premiums or payments so fixed and established, and provided further, that said premium or payment shall never exceed one-fourth of one per cent of any one year, except for the first year. It is the intention of this act to create a fund for the security of deposits to the extent that such annual premiums or payments and the accumulation therefrom will constitute as herein provided.

Sec. 5. Whenever there shall be on hand a surplus of said fund, after paying the losses to depositors which may have occurred as provided in this act, and when such surplus in the judgment of said board, is sufficient to justify either the suspension of or reduction in the collection of further sums or premiums from the banks and trust companies which have contributed to said surplus, then said board shall reduce or suspend such payments and in subsequent collection of premiums or pay-

ments for a year or years shall make due and equitable allowances to or give proper credit to the several banks and trust companies for their respective contributions to said fund, and said banking board shall keep or cause to be kept an account with each bank and trust company showing the amounts paid to said fund by each bank, and said board shall keep or cause to be kept books and records showing when said fund was collected, from whom said fund was collected, and the amount of same; and should it become necessary for said board to pay out said fund or any part thereof by reason of any failure or failures of any State bank or trust company, said board shall keep a record of such amount as paid, when the same was paid out and to whom said amount was paid; and shall make an annual detailed report in writing and under oath to the Governor of this State, showing the amount of money received by said board, when and from whom received, the amounts paid out, when and to whom same was paid, if anything, and the amount available of said fund.

Sec. 6. The fund herein provided for shall be deposited with the State Treasurer, who shall be the official custodian of said fund, and who shall cause to be kept a separate account of the same; and said fund shall be paid out on warrants or orders issued by said Banking Board; and said fund, nor any part thereof, shall never be diverted from the purposes herein specified. Said Banking Board may provide from time to time for the deposit of any portion of said fund in the State depositories, subject to the call of said board, under such rules and regulations as may be prescribed by said board.

Sec. 7. Whenever the surplus accumulated in the said fund shall be deemed by said Banking Board more than sufficient to constitute an available fund for the payment of probable losses, said board shall convert so much of said surplus as may not be required as an available fund for investment, and said board shall invest such fund in good and sufficient State, county or municipal bonds, bearing a rate of interest not less than three per cent per annum, and the interest which shall accrue on the investment of any part of the surplus which the Banking Board may invest in State, county or municipal bonds shall be paid back by the Banking Board as dividends to the several banks and trust companies in proportion to which they have contributed to said surplus; provided, that the

Banking Board does not think the interest accrued should be retained and added to the available fund; and all of said fund, both available and invested, shall at all times constitute a fund for the payment of depositors as herein provided, and said fund shall be a trust fund for the benefit of depositors and of banks and trust companies contributing thereto.

Sec. 8. All State banks and trust companies now organized under the laws of this State or that may hereafter be organized under the laws of this State shall and are hereby required to secure their depositors by either complying with the provisions of this act creating the "depositors' security fund" or by filing the bond with the Commissioner of Banking as herein provided, as they may elect so to do. And should any State bank or trust company organized under the laws of this State refuse to comply with the provisions of this act, it shall be the duty of the Commissioner of Banking to revoke or forfeit the charter of the State bank or trust company so refusing to comply with the provisions of this act. All banks and trust companies electing under the provisions of this act to avail themselves of the "depositors' security fund," as defined in this act, or to execute the bond as defined in this act, shall file with the Commissioner of Banking proper evidence of such action prior to January 1, 1910, and shall be entitled to exercise all the rights and privileges granted to such banks on and after said date, and all banks and trust companies thereafter exercising either of said options shall be entitled to exercise such rights and privileges on and after the election and filing thereof.

Sec. 9. Whenever any State bank or trust company subject to the provisions of this act, creating the "depositors' security fund," shall become insolvent or fail, and its affairs shall come into the hands of the Commissioner of Banking or any other officer or person legally authorized to administer its affairs, as provided by law, then said fund shall be used to pay the lawful depositors of said bank who are not otherwise secured and the savings depositors not secured and whose deposits do not bear interest exceeding five per cent per annum, the losses sustained by them by reason of such deposits, but said funds shall not be used to pay United States, State or other public funds which are secured, nor any accumulation of interest upon any deposits or savings deposits nor deposits due to other banks,

bankers or trust companies. But all the funds and assets of such banks or trust companies as avail themselves of the "depositors' security fund" for the payment of depositors which are available or which may be converted into cash within such reasonable time as may be fixed by said Banking Board, shall first be used for that purpose, and then the balance due upon the deposits protected by the "depositors' security fund" shall be paid out of said fund. If the fund on hand shall not be sufficient to pay the claim of such depositors in full, then the said board shall issue evidence of such unpaid balances, under such rules as the board may prescribe, and said balances shall be paid out of said fund whenever the same shall be sufficient for that purpose. Whenever any portion of said fund has been used to pay depositors under this act, then the assets of said bank or trust company availing itself of the "depositors' security fund" for the payment of depositors and which would go to the payment of depositors, which may be left over after the payment in full of its deposit liabilities shall belong to and shall be paid over to said fund to the extent to which said fund may be used.

Sec. 10. The Commissioner of Banking shall issue to all State banks and trust companies electing to comply with the provisions of this act creating the "depositors' security fund" a certificate to that effect, which shall be posted in the office of such bank or trust company. Such banks or trust companies complying with the provisions of this act creating the "depositors' security fund" may print upon its stationery or advertisements words to the effect, "The depositors of this bank are secured in the 'depositors' security fund;" but no bank or trust company or any officer or employe thereof shall print or advertise in this State or out of it or make any other representation to the effect that its depositors are guaranteed by the State; nor shall any bank, trust company or officer or employe make any false representation or statement in regard to such security; and any bank or trust company violating this section shall have its charter revoked or be subject to pay a fine of not less than one thousand dollars nor more than five thousand dollars, for the benefit of said fund upon the suit of the Banking Board; and any such officer or employe violating any of the provisions of this section shall be guilty of a criminal offense and be fined in any

sum not less than one hundred nor more than one thousand dollars, or be punished by imprisonment in the county jail for not more than one year.

Sec. 11. Each and every State bank and trust company heretofore incorporated under the laws of this State or hereafter incorporated under the laws of this State, unless it elects to come under the provisions of the act providing a "depositors' security fund" shall file with the Commissioner of Insurance and Banking a good and sufficient bond, payable to the Commissioner of Banking and his successors in office for and on behalf of the lawful depositors of such banks. Such bond may be executed by individuals, provided that in any event not less than three such individuals of sound financial responsibility shall execute the same; provided, also, that each individual surety must be a resident of the State of Texas, and must own unincumbered property situated within the State over and above all lawful exemptions, sufficient to insure their solvency upon such bond in accordance with the provisions of this act, and provided further, that in the event if such bond is executed by individual surety each of said sureties shall have the right to designate the specific amount for which he shall be held liable on such bond; provided further, that in any event such bond shall be approved by the commissioners court of such county in which the bank receiving deposits and making such bond is situated and such approval by said commissioners court shall be made a matter of record upon the minutes of said court, and such bond shall be further subject to the approval of the Commissioner of Banking, and by him filed in his office and recorded in a book to be kept for that purpose; such banks shall execute such bond in an amount equal to its capital stock; provided further, that any surety upon any such bond provided for in this act, who may desire to do so, shall deposit with the State Treasurer unincumbered exclusive real estate mortgage or other liens, or National, State, county, municipal, school district bonds or bonds of any political subdivision authorized by law to issue the same, or either of them, having an actual cash market value, subject to the approval of the Commissioner of Banking equal in amount to the liability of such surety on such bond upon the terms and conditions that in case of default upon such bond, said Commissioner of Banking is authorized to convert such securities so deposited, or such part thereof as may

be necessary, into cash, which shall be by him applied in satisfaction of the liability of such surety upon such bond without any legal process therefor. After the liability of any surety making such deposit shall expire, such securities or any portion thereof, remaining on deposit with the State Treasurer shall be returned to such surety upon the certificate of the Commissioner of Banking that such liability has so expired, and it shall be the duty of such Commissioner to account to such surety for any unused portion of the cash money resulting from the conversion of such securities, or any portion thereof, into cash as above provided. The bond provided for in this act shall be deemed and held to be cumulative of all laws and constitutional provisions fixing the liability of stockholders for the obligations and indebtedness of any such bank.

Sec. 12. The bond provided for in the preceding section of this act shall be in form and substance as follows:

STATE OF TEXAS,

COUNTY OF

Know all Men by These Presents:

That we,, as principal, and, and, as sureties, are firmly bound unto the Commissioner of Banking of the State of Texas, and his successors in office as trustee for the benefit of all lawful depositors of the bank or trust company in the sum of dollars, payable as provided for by the laws of Texas at the time of the execution thereof, conditioned that the above bounden will pay upon demand to the Commissioner of Banking of the State of Texas, as trustee for all lawful depositors in said bank, the full amount of money due them and each of them at the time of the default or failure to pay any moneys due such depositors, such default or failure occurring during the period of one year from the date this bond is approved and becomes effective.

Witness our hands at day of A. D.

As principal.

As surety.

As surety.

(In case sureties bind themselves for limited amounts, they shall state opposite their signatures "to be bound in

any event as provided by law for dollars, and no more.")

It is further provided in this section that upon the payment of any sum made obligatory by reason of the terms of this act, any surety herein making or participating in such payments shall thereby be subrogated to the rights of a depositor, and shall be entitled to assert such right in accordance with the laws of this State, secondary and subject to the rights of the depositors for whose benefits such payments are made.

Sec. 13. The Commissioner of Banking shall be entitled to charge a fee not to exceed twenty dollars (\$20) to be paid by the bank executing the bond as hereinabove provided for the examination of any such bond provided for in Sections 4 and 5 of this act; provided, that in case he shall approve and file same, no additional amount shall be charged for such approval and filing. Out of the proceeds of the fee, the Commissioner shall defray the expenses of investigating the solvency of the sureties upon such bond if any such expenses are incurred and the remainder thereof shall be paid into the general revenue fund of this State.

Sec. 14. The security provided for by this act in Sections 11 and 12 to be executed by bank and trust companies so electing, for the benefits of their depositors may consist of more than one bond, provided that the total amount of liability upon such bond or bonds so filed shall be equal to the amount provided for in this act. In case of default the sureties upon such bonds where more than one has been filed, shall be required to contribute pro rata to make good such default, provided that the amount which shall not be collectible from any such surety by reason of his insolvency, shall be contributed pro rata by all other sureties.

Sec. 15. In the event of the default by any such bank or trust company transacting business or receiving deposits, in the payment of any deposit lawfully due, it shall be the duty of the Commissioner of Banking when such default shall be made known to him to report same forthwith to the Attorney General of the State of Texas, and to give notice thereof to every and all persons who may be obligated by reason of such default, and the conditions of the bond herein provided for and upon the mailing of such notice the full amount of the said bond shall at once become due and payable. And it shall further be the duty of the makers and signers of such bond to pay immediately

the full amount of the same according as he may be obligated to the Commissioner of Banking or such part thereof as he may demand to be held in trust for the depositors of any such bank or trust company executing such bond, and in case any such bank or trust company shall have on hand as part of its assets any real mortgages or vendors' liens or any National, State, county, municipal, school district or other bonds, the Commissioner of Banking shall be authorized to take possession of the same and to value them in accordance with the provisions of this act, providing that such valuation shall not be less than the actual market value thereof, and said Commissioner of Banking shall be and is hereby authorized to convert such real estate mortgages and vendors' liens and other forms of security herein provided for into actual cash money, to be credited by him upon the liability of the bond hereinbefore provided for in the manner and upon the terms as provided for by this act. All proceeds thus arising herewith from voluntary payments or otherwise, shall be by the Commissioner of Banking or his special agent promptly paid in full or pro rata to all unpaid lawful depositors, upon presentation to him of satisfactory proofs of their claims, which proofs shall be received and filed in his office and a record thereof made by him in a book to be kept for that purpose before payment of any such depositor shall be made and approved by him, and a full report of all such claims and payments signed by said Commissioner of Banking under oath shall be filed in the office of the county clerk of the county in which such bank is located. In the event any maker or signer as surety of such bond shall be a corporation, incorporated under the laws of Texas, and it shall refuse and fail to pay upon demand as hereinabove provided for the full amount due by it upon such bond its charter shall thereby become subject to forfeiture, and it shall be the duty of the Attorney General of the State of Texas, upon receiving notice thereof from the Commissioner of Banking, to bring suit in the district court of any county in this State where he may elect, to forfeit such charter and upon a hearing thereof decree and judgment may be rendered annulling and forfeiting the charter of such corporation.

In the event any maker or signer as surety of such bond shall be a corporation, incorporated elsewhere than in the State of Texas, and transacting business in this State under a permit from the

State, and which shall refuse and fail to pay on demand therefor by the Commissioner of Banking, as herein provided for, the full amount of its liability upon such bond, it shall thereupon be the duty of the Commissioner of Banking to thereafter suspend the permit of said corporation to transact business in this State, until it shall be shown to his satisfaction that it has fully discharged its liability upon such bond upon the default thus made.

Sec. 16. In the event such persons, firms, corporations so executing such bond shall make default in the payment of the same lawfully demanded for a period of fifteen days after such demand and the obligations of such bond are not discharged, it shall be the duty of the Attorney General or any district or county attorney, acting at his instance, to bring suit upon such bond in the name of the State of Texas for the benefit of all persons who may be beneficiaries of said bond by reason of its terms and conditions; such suit shall be instituted in the district court of the county where the bank or trust company executing such bond had its principal place of business at the time of its failure, or in any county immediately adjacent thereto, at the option of the Attorney General. And in any such suit so brought upon any such bond, the Attorney General shall have the right by writ of sequestration as is provided by law, except that no bond or affidavit shall be required of the State of Texas before the issuance thereof, to seize and take possession of the property and effects, except exempt property under the laws of this State, of any such sureties upon such bond of any bank or trust company so failing and defaulting in the payment of its deposits when lawfully demanded as hereinbefore provided for. The proceeds collected by any such suit or action shall be distributed by the Commissioner of Banking to the depositors entitled thereto in the same manner provided in this act with respect to payments voluntarily made by sureties upon such bonds.

Sec. 17. If at any time it appears to the Commissioner of Banking that the bond of any bank or trust company is insufficient, he shall have the authority, and it shall be his duty to require such banks and trust companies to file new, and additional security in an amount sufficient to protect its depositors in accordance with the provisions of this act as applicable to banks and trust companies. In the event such

banks and trust companies shall refuse to or fail to comply with such requirements, the Commissioner of Banking shall proceed as is provided for by law in the case of insolvent banks.

Sec. 18. If any cashier, director or other officer or employe of, or any person connected with any bank or trust company as defined in this act, shall knowingly transfer or otherwise dispose of any of its real estate, mortgage, or lien or any of its National, State, county, municipal, school district or other bonds when such bank or trust company is in a failing or insolvent condition, such cashier, director or other officer or employe of or any person connected with such bank or trust company so transferring the same or aiding, assisting or abetting or knowingly assenting to any such transfer, shall be deemed guilty of a felony, for which prosecution may be had in the district court of the county where such bank or trust company is located, and upon conviction shall be imprisoned in the State penitentiary for not less than two nor more than five years.

Sec. 19. Any national bank in this State approved by the Commissioner of Banking, may voluntarily avail its depositors of the protection of the provisions of this act by application to the State Banking Board in writing; and the said application may be granted upon terms and conditions in harmony with the purposes of this act, to be agreed upon by the State Banking Board, the Commissioner of Banking and the Comptroller of Currency of the United States of America; provided that in the event national banks should be required by Federal enactment to pay assessments to any bank guaranty fund of the Federal Government and thereby the depositors in the national banks in this State should be secured by virtue of Federal Laws, that the national banks having availed themselves of the benefits of this act may withdraw therefrom and have returned to them the unused portion of all premiums levied upon and paid by said banks and trust companies, however, should the courts declare this section of this bill unconstitutional or unauthorized by law, or in conflict with any other section or provisions of this act, or with any existing banking laws of this State, then such decision shall affect only this section, such section being independent of the other sections of this act.

Sec. 20. Each and every national bank heretofore incorporated, organized and existing under and by virtue of the

banking laws of the United States of America, shall have the right and privilege at its option, and authority is hereby granted unto each and all such national banks, in so far as the State of Texas may have authority so to do, to come within and under the terms, regulations and stipulations of the provisions of this act for the security of deposits. The words "State banks" when used in this act shall be held to include and apply to all banking corporations heretofore incorporated or which may hereafter be incorporated under the banking laws of this State.

Sec. 21. It shall be the duty of the Commissioner of Banking to issue to each State bank or trust company which the State Banking Board shall have approved and certified to him as provided in this act, as being entitled to transact a banking business, a certificate of authority in such form as the State Banking Board shall approve, to be signed by him under his official seal, certifying that such State bank is authorized under the laws of this State to engage in the banking business.

The Commissioner of Banking shall close all State banks and trust companies which the State board shall disapprove and determine not entitled under the laws of this State to transact a banking business, and shall proceed in such cases in the manner provided for by law with respect to insolvent banks, unless such banks shall go into voluntary liquidation.

Sec. 22. The Commissioner of Banking shall issue to all banks and trust companies securing their deposits as provided in Sections 11 and 12 of this act, a certificate to that effect which shall be posted on the office of such banks or trust companies. Such banks or trust companies may print upon its stationery and advertisement words to this effect: "The depositors of this bank or trust company are protected by security bonds under the laws of this State." Any bank or trust company or any officer, director, stockholder or other person for any such bank or trust company who shall write, print, publish or advertise in any manner, or by any means, or permit any one for them, or for said bank or trust company to write, print, publish or advertise any statement that the depositors of any such bank or trust company are secured otherwise than is permitted in this section, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$100 nor more than \$1000, or be punished by im-

prisonment in the county jail for not less than three months nor more than twelve months or by both fine and imprisonment.

Pending the reading of the substitute, on motion of Senator Watson, the same was dispensed with.

Senator Hume moved to table the substitute, which motion to table was adopted by the following vote:

Yeas—18.

Adams.	Peeler.
Alexander.	Senter.
Brachfield.	Terrell of Bowic.
Hayter.	Terrell of McLennan.
Hume.	Thomas.
Kellie.	Veale.
Masterson.	Ward.
Murray.	Watson.
Paulus.	Weinert.

Nays—9.

Bryan.	Mayfield.
Cofer.	Meachum.
Greer.	Stokes.
Harper.	Willacy.
Holsey.	

Absent.

Hudspeth.	Real.
Perkins.	Sturgeon.

Senator Harper offered the following substitute for the amendment:

Pending the reading of the substitute, on motion of Senator Watson, the same was dispensed with.

Amend the bill by striking out all after the enacting clause, and inserting in lieu thereof the following:

Be it enacted by the Legislature of the State of Texas:

Section 1. Each and every bank of deposit or discount or banking and trust company hereafter incorporated under the laws of this State shall be and is hereby required to secure the payment of funds deposited with any such bank or trust company, by giving a bond as hereinafter provided or by availing its depositors of the protection of the State bank guaranty fund, to be created in the manner hereinafter set forth; all banks or banking and trust companies taking advantage of this act by securing their depositors by bond as hereinafter provided shall be denominated herein as bond security banks; all banks or banking and trust companies availing their depositors of the protection of the State bank guaranty fund as hereinafter provided, shall be denominated herein as guaranty fund banks; and whenever in this act the words bond security banks

are used and applied the same shall be deemed and held to apply to all such banks, banking and trust companies as may secure their deposits by the bond system hereinafter provided for; whenever the words guaranty fund banks are used or applied in this act the same shall be deemed and held to apply to each and every such bank or banking and trust company availing its depositors of the protection of the State bank guaranty fund.

Sec. 2. Each and every bank of deposit or discount or banking and trust company heretofore organized and incorporated under and by virtue of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas and known as the State banking law, shall be required to secure its deposits by the manner, methods and under the terms, provisions and regulations as set forth in this act for bond security banks or guaranty fund banks; provided, that any such banks or banking and trust companies so securing their depositors shall have the privilege and option of accepting and coming in under the terms and provisions of this act as the same applies to bond security banks or guaranty fund banks; such option and privilege to be exercised in the manner as hereinafter provided. Nothing in this act shall be construed as making it compulsory for any such bank or banking and trust company heretofore incorporated to accept either the bond security system or the guaranty fund system, but the adoption of either such system as to them shall be voluntary.

Sec. 3. Each and every National bank heretofore incorporated, organized and existing under and by virtue of the banking laws of the United States of America shall have the right and privilege at its option, and authority is hereby granted unto each and all such National banks, in so far as the State of Texas may have authority so to do, to come within and under the terms, regulations and stipulations of the provisions of this act for the security of deposits by either the bond security system or the guaranty fund bank system, as hereinafter set forth. The words "State banks" when used in this act shall be held to include and apply to all banking corporations heretofore incorporated or which may hereafter be incorporated under the banking laws of this State.

Sec. 4. Each and every State bank hereafter incorporated, which shall elect to come under the provisions of this act

as a bond security bank, shall file annually with the Commissioner of Insurance and Banking a good and sufficient bond, payable to the Commissioner of Insurance and Banking and his successors in office for and on behalf of the lawful depositors of such banks. Such bond may be executed by individuals; provided, that in any event not less than three such individuals of sound financial responsibility shall execute the same; provided, also, that such individual sureties must be residents of the State of Texas, and must own unincumbered property situated within the State over and above all lawful exemptions, sufficient to insure their solvency upon such bond in accordance with the provisions of this act; and provided further, that in the event such bond is executed by individual surety each of said sureties shall have the right to designate the specific amount for which he shall be held liable on such bond; provided further, that in any event such bond shall be approved by the commissioners court of such county in which the bank receiving deposits and making such bond is situated, and such approval by said commissioners court shall be made a matter of record upon the minutes of said court, and such bond shall be further subject to the approval of the Commissioner of Insurance and Banking, and by him filed in his office and recorded in a book to be kept for that purpose; such bond shall be executed in respective amounts according to the respective amounts of its capital stock, as follows, to wit:

All such bond security banks having a capital stock of fifty thousand dollars (\$50,000) and less, shall execute such bond in an amount equal to double the amount of its capital stock. All such banks having a capital stock in excess of fifty thousand dollars (\$50,000) and not more than one hundred thousand dollars (\$100,000) shall execute such bond in an amount equal to one and one-half times the amount of its capital stock. All such bond security banks having a capital stock in excess of one hundred thousand dollars (\$100,000) shall execute such bond in an amount equal to the amount of its capital stock. It is further provided herein that any such banks mentioned in this section whose capital stock shall be in excess of one hundred thousand dollars (\$100,000) and which, at the time of its defaultation of the payments of its deposits as hereinafter provided, shall have in its possession and ownership good and sufficient exclusive real estate first mort-

gages or vendors' lien, or good and lawful interest-bearing National, State, county, municipal, school district bonds, or bonds of any political subdivision authorized by law to issue the same, or either of them, which shall be approved by the Commissioner of Insurance and Banking, then the liability of any such bank as principal and its sureties upon any such bond as herein provided for shall be reduced proportionately to the extent of the approved cash value of such real estate mortgages, or liens, or National, State, county, municipal, school district or other bonds, as may be determined by the Commissioner of Insurance and Banking at the time of the accrued liability upon such bonds so executed by such bond security banks for the purpose of securing its depositors.

In the event any person, firm or corporation, or association of persons, executing the bond or guaranty herein provided for as sureties for any such bank shall transfer such portion of his or its property within four months prior to the notice herein provided for in case of the default of the deposits lawfully demanded as that his remaining property over and above all lawful exemptions would be insufficient to meet the requirements of his respective liability upon said bond, and in such event, such transfer of such property shall be void as to any unpaid balance due and payable under said bond or guaranty, and there shall be and is hereby created a preferred lien upon the property so undertaken to be transferred in favor of the Commissioner of Insurance and Banking as trustee for and on behalf of the lawful depositors of any such bond security bank so making default in the payment of its deposits to the extent of any portion of any unpaid legal liability due and owing upon such bond; provided, that the satisfaction of such bond as provided for in this act and the terms of such bond shall satisfy and discharge such preferred lien hereinabove provided for; provided, that if any surety upon any such bond provided for in this act, who may desire to do so, shall deposit with the State Treasurer unincumbered exclusive real estate mortgage or other liens, or National, State, county, municipal, school district bonds or bonds of any political subdivision authorized by law to issue the same, or either of them, having an actual cash market value, subject to the approval of the Commissioner of Insurance and Banking equal in amount to the liability of such

surety on such bond upon the terms and conditions that in case of default upon such bond, said Commissioner of Insurance and Banking is authorized to convert such securities so deposited, or such part thereof as may be necessary, into cash money, which shall be by him applied in satisfaction of the liability of such surety upon such bond without any legal process therefor; then, and in that event, such preference lien shall not thereafter exist. After the liability of any surety making such deposit shall expire, such securities, or any portion thereof remaining on deposit with the State Treasurer shall be returned to such surety upon the certificate of the Commissioner of Insurance and Banking that such liability has so expired, and it shall be the duty of such Commissioner to account to such surety for any unused portion of the cash money resulting from the conversion of such securities, or any portion thereof, into cash as above provided. The bond provided for in this act shall be deemed and held to be cumulative of all other laws and constitutional provisions fixing the liability of stockholders for the obligations and indebtedness of any such bank.

Sec. 5. The bond provided for in the preceding section of this act shall be in form and substance as follows:

STATE OF TEXAS,

COUNTY OF

Know all Men by These Presents:

That we,, as principal, and, as sureties, are firmly bound unto the Commissioner of Insurance and Banking of the State of Texas and his successors in office as trustee for the benefit of all lawful depositors of the bank or trust company in the sum of dollars, payable as provided for by the laws of Texas at the time of the execution thereof, conditioned that the above bounden will pay upon demand to the Commissioner of Insurance and Banking of the State of Texas, as trustee for all lawful depositors in said bank, the full amount of money due them and each of them at the time of the default or failure to pay any moneys due such depositors, such default or failure occurring during the period of one year from the date this bond is approved and becomes effective.

Witness our hands at

County, Texas, this.....day of.....
A. D.....

.....as principal.
as surety.
as surety.

(In case sureties bind themselves for limited amounts they shall state opposite their signatures "to be bound as provided by law for..... dollars, and no more.")

It is further provided in this section that upon the payment of any sum made obligatory by reason of the terms of this act, any surety herein making or participating in such payments shall thereby be subrogated to the rights of a depositor, and shall be entitled to assert such right in accordance with the laws of this State, secondary and subject to the rights of the depositors for whose benefits such payments are made.

Sec. 6. The Commissioner of Insurance and Banking shall be entitled to charge a fee not to exceed twenty dollars (\$20) to be paid by the bank executing the bond as herein above provided for the examination of any such bond provided for in Sections 4 and 5 of this act; provided, that in case he shall approve and file same, no additional amount shall be charged for such approval and filing. Out of the proceeds of the fee the Commissioner shall defray the expenses of investigating the solvency of the sureties upon such bond if any such expenses are incurred, and the remainder thereof shall be paid into the general revenue fund of this State.

Sec. 7. The security provided for by this act to be executed by bond security banks for the benefits of its depositors may consist of more than one bond; provided, that the total amount of liability upon such bond or bonds so filed shall be equal to the amount provided for in this act. In case of default the sureties under such bonds where more than one has been filed, shall be required to contribute pro rata to make good such default; provided, that the amount which shall not be collectible from any such surety by reason of his insolvency, shall be contributed pro rata by all other sureties.

Sec. 8. In the event of the default by any such bond security bank, transacting business or receiving deposits, in the payment of any deposit lawfully due, it shall be the duty of the Commissioner of Insurance and Banking when such default shall be made known to him to report the same forthwith to the Attorney General of the State of Texas, and to give notice to every and all persons who may be obligated by

reason of such default, and the conditions of the bond herein provided for and upon the mailing of such notice the full amount of the said bond shall at once become due and payable. And it shall further be the duty of the makers and signers of such bond to pay immediately the full amount of the same according as he may be obligated to the Commissioner of Insurance and Banking or such part thereof as he may demand to be held by him in trust for the depositors of any such bond security bank executing such bond, and in case any such bond security bank shall have on hand as part of its assets, any real estate mortgages or vendors' liens, or any National, State, county, municipal, school district, or other bonds, the Commissioner of Insurance and Banking shall be authorized to take possession of the same and to value them in accordance with the provisions of this act; provided, that such valuation shall not be less than the actual cash market value thereof, and said Commissioner of Insurance and Banking shall be and is hereby authorized to convert such real estate mortgages and vendors' liens and other forms of security as herein provided for into actual cash money, to be credited by him upon the liability of the bond hereinbefore provided for in the manner and upon the terms as provided for by this act. All proceeds thus arising herewith from voluntary payment or otherwise, shall be by the Commissioner of Insurance and Banking or his special agents promptly paid in full or pro rata to all unpaid lawful depositors, upon presentation to him of satisfactory proofs of their claims, which proofs shall be received and filed in his office and a record thereof made by him in a book to be kept for that purpose before payment of any such depositor shall be made and approved by him, and a full report of all such claims and payments signed by said Commissioner of Insurance and Banking under oath shall be filed in the office of the county clerk of the county in which such bank is located. In the event any maker or signer as surety of such bond or policy of insurance and other guaranty of indemnity shall be a corporation, incorporated under the laws of Texas, and it shall refuse and fail to pay upon demand therefor as hereinbefore provided for the full amount due by it upon such bond, its charter shall thereby become subject to forfeiture, and it shall be the duty of the Attorney General of the State of Texas, upon receiving notice from the Commissioner of

Insurance and Banking, to bring suit in the district court of any county in this State which he may elect, to forfeit such charter, and upon hearing thereof decree and judgment may be rendered annulling and forfeiting the charter of such corporation.

In the event any maker or signer as surety of such bond shall be a corporation, incorporated elsewhere than in the State of Texas, and transacting business in this State under a permit from the State, and which shall refuse and fail to pay on demand therefor by the Commissioner of Insurance and Banking, as herein provided for, the full amount of its liability upon any such bond, it shall thereupon be the duty of the Commissioner of Insurance and Banking to thereafter suspend the permit of said corporation to transact business in this State, until it shall be shown to his satisfaction that it has fully discharged its liability upon such bond upon the default thus made.

Sec. 9. In the event such persons, firm, corporation, so executing such bank security bond shall make default in the payment of the same lawfully demanded for a period of fifteen days after such demand and the obligation or such bond is not discharged, it shall be the duty of the Attorney General or any district or county attorney, acting at his instance, to bring suit upon such bond in the name of the State of Texas for the benefit of all persons who may be beneficiaries of said bond by reason of its terms and conditions; such suit shall be instituted in the district court of the county where the bond security bank had its principal place of business at the time of its failure, or in any county immediately adjacent thereto, at the option of the Attorney General. And in any such suit so brought upon any such bond, the Attorney General shall have the right by writ of sequestration, as is provided by law, except that no bond or affidavit shall be required of the State of Texas before the issuance thereof, to seize and take possession of the property and effects of any such sureties upon such bond of any bond security bank so failing and defaulting in the payment of its deposits when lawfully demanded as hereinbefore provided for. The proceeds collected by any such suit or action shall be distributed by the Commissioner of Insurance and Banking to the depositors entitled thereto in the same manner provided in this act with respect to payments voluntarily made by sureties upon such bonds.

Sec. 10. If at any time it appears to the Commissioner of Insurance and Banking that the bond of any bond security bank, which has elected to come under the provisions of this act, is insufficient, he shall have the authority and it shall be his duty to require such bond security banks to file new and additional security in an amount sufficient to protect its depositors in accordance with the provisions of this act as applicable to bond security banks. In the event such bond security banks shall refuse to or fail to comply with such requirements the Commissioner of Insurance and Banking shall proceed as is provided for by this act in the case of insolvent banks.

Sec. 11. If any cashier, director or other officer or employe of or any person connected with any bond security bank as defined in this act, shall knowingly transfer or otherwise dispose of any of its real estate mortgages or liens, or any of its National, State, county, municipal, school district or other bonds, when such bank is in a failing or insolvent condition, such cashier, director or other officer or employe of or any person connected with such bond security bank so transferring the same or aiding, assisting or abetting, or knowingly assenting to any such transfer, shall be deemed guilty of a felony, for which prosecution may be had in the district court of the county where such bond security bank is located, and upon conviction shall be imprisoned in the State penitentiary for not less than two nor more than five years.

Sec. 12. Any State bank incorporated prior to the taking effect of this act may avail its depositors of the protection provided by this act relating to bond security banks or of the provisions of this act relating to guaranty fund banks at its option in the following manner: The board of directors of any State bank may and are required upon the written request of the owners of a majority portion of the capital stock to call a meeting of the stockholders to be held at the office of such State bank, of which each stockholder shall be given not less than ten days' notice by registered mail, for the purpose of determining whether or not such State bank shall avail its depositors of the protection afforded by the provisions of this act relating to either of such systems, and if at such stockholders' meeting the holders of a majority of the capital stock or their duly authorized proxies, shall vote to so avail their depositors of the protection afforded by the pro-

visions of this act relating to bond security banks or those relating to guaranty fund banks, in either event such vote shall be entered upon the minutes of the corporation and a duly certified copy thereof, attested by the president and cashier shall be immediately forwarded to the Commissioner of Insurance and Banking, who shall file the same in his office and shall record the same in a book to be kept for that purpose, and thereafter as hereinafter provided such State bank shall be in all respects subject to and governed by all the provisions of this act applicable to guaranty fund banks or to all the provisions of this act applicable to bond security banks, as the case may be. The incorporators of all State banks hereafter incorporated shall be required to file with their articles of incorporation a statement signed by them, availing their depositors of the protection afforded either by the provisions of this act relating to bond security banks, or of those relating to guaranty fund banks, and all such State banks hereafter incorporated shall be governed by the provisions of this act so accepted in such statement.

All State banks electing under the provisions of this act to become bond security banks as defined in this act or guaranty fund banks as defined in this act, in the manner provided for, which shall exercise the right of such election prior to October 1, 1909, shall file with the Commissioner of Insurance and Banking proper evidence of such action prior to October 1, 1909, and shall be entitled to exercise all the rights and privileges granted to such banks on and after said date, and all State banks thereafter exercising either of said options shall be entitled to exercise such rights and privileges on and after the beginning of the first quarter of a calendar year, after they shall file proper evidence of such action.

Sec. 13. Any national bank in this State, approved by the Commissioner of Insurance and Banking, may voluntarily avail its depositors of the protection of the provisions of this act relating to bond security banks or of those relating to guaranty fund banks, by application to the State Banking Board, in writing, and the said application may be granted upon terms and conditions in harmony with the purposes of this act, to be agreed upon by the State Banking Board, the Commissioner of Insurance and Banking and the Comptroller of Currency of the United States of America; provided, that in the event nation-

al banks should be required by Federal enactment to pay assessments to any bank guaranty fund of the Federal Government and thereby the deposits in national banks in this State should be guaranteed by virtue of Federal laws, that the national banks having availed themselves of the benefits of this act may withdraw therefrom and have returned to them the unused portion of all assessments levied upon and paid by said banks; however, should the courts declare this section of this bill unconstitutional or unauthorized by law, or in conflict with any other section or provision of this act, or with any existing banking laws of this State, then such decision shall effect this section, such section being independent of the other sections of this act.

Sec. 14. It shall be the duty of the Commissioner of Insurance and Banking to issue to each State bank which the State Banking Board shall have approved and certified to him as provided in this act as being entitled to transact a banking business, a certificate of authority in such form as the State Banking Board shall approve to be signed by him under his official seal, certifying that such State bank is authorized under the laws of this State, to engage in the banking business. Such certificate of authority when issued to guaranty fund banks shall contain the following statement on the face thereof in bold type: "The non-interest-bearing and unsecured deposits of this bank are protected by the State bank guaranty fund." And when issued to bond security banks shall contain the following statement on the face thereof in bold type: "All the deposits of this bank are protected by security bond under the laws of the State of Texas." And when issued to the State banks other than guaranty fund banks and bond security banks, it shall contain neither of these, nor any similar statement. The Commissioner of Insurance and Banking shall close all State banks which the State Banking Board shall disapprove and determine not entitled under the laws of this State to transact a banking business, and shall proceed in such cases in the manner provided by law with respect to insolvent banks, unless such banks shall go into voluntary liquidation.

Sec. 15. All guaranty fund banks provided for in this act are hereby authorized and empowered if they desire so to do, to publish, either by forms of advertising which they may adopt, or upon their stationery, the following words:

"The non-interest-bearing and unsecured deposits of this bank are protected by the State bank guaranty fund." All bond security banks provided for in this act are hereby authorized and empowered if they desire to do so, to publish either by forms of advertising which they may adopt, or upon their stationery, the following words: "All the deposits of this bank are protected by security bonds under the laws of this State." Any guaranty fund bank or bond security bank or any officer, director, stockholder, or other person for any such bank, who shall write, print, publish or advertise in any manner or by any means or permit any one for them or for said bank to write, print, publish or advertise any statement that the deposits of any such bank are secured otherwise than as permitted in this section, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$100, nor more than \$500, or confined in the county jail for not less than three months nor more than twelve months, or by both such fine and imprisonment. Any person who shall write, print, publish or advertise the above statement authorized to be used by bond security banks or guaranty fund banks other than for and on behalf of such banks shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$100 nor more than \$500, or confined in the county jail for not less than three months nor more than twelve months, or by both such fine and imprisonment.

Sec. 16. On and after the first day of January, 1910, all guaranty fund banks shall be liable pro rata, in the manner and proportion and to the extent hereinafter provided for the payment of all the liabilities of each such guaranty fund bank to its guaranteed depositors as hereinafter defined.

All the liabilities of guaranty fund banks other than liabilities to stockholders on account of stock owned by them, except debts due by such banks for which they have given collateral or other security, and debts due depositors, or other persons, upon which such guaranty fund banks or any person for them or on their behalf have directly or indirectly paid or agreed to pay, or have become liable in law to pay, any interest, bonus, commission or other compensation, whatever shall be considered and defined and hereinafter referred to as their "guaranteed deposits" and the persons to whom such liabilities are or may become due and payable, shall be considered and defined and hereinafter

referred to as their "guaranteed depositors."

Sec. 17. For the purpose of carrying out and enforcing the provisions of this act, there is hereby created the State Banking Board, which shall be composed of the Commissioner of Insurance and Banking, who is hereafter referred to in this act as the Commissioner, the Attorney General and a citizen of this State, who shall be appointed by the Governor of this State, and who, prior to his appointment, shall have had five years' experience as an active officer of a bank and who shall receive as his compensation as a member of the State Banking Board the sum of \$10 per day for each day while engaged in active discharge of his duties as a member of said board. Immediately after this act shall take effect, said board shall cause to be made by the State bank examiners, who are hereby placed under the direction and control of said board for that purpose, a full and careful examination of the affairs of each and every State bank doing business in this State, for the purpose of ascertaining its financial condition, the character, amount and values of its assets, the extent of its liabilities, the financial responsibility of its stockholders, the general reputation as to competency and business qualifications of its officers and directors, and such other facts as said board may deem advisable and may direct; and said board shall require a full and detailed report of such examination of each such corporation, to be made by the State Bank Examiner making such examination, under his oath of office, such report to be filed with said board not later than the first day of December, 1909. It shall be the duty of the State Banking Board, from time to time after this act shall take effect, and prior to January 1, 1910, as the reports of examinations provided for in this section shall be filed with it, to consider and pass upon such reports, and to determine therefrom, and from such additional facts as may be submitted for its consideration, or as it may ascertain from other investigation, whether such State bank is solvent and its capital stock unimpaired, and whether its officers and directors are of good general reputation as being competent to properly discharge the duties incumbent upon them as such officers or directors and whether it is entitled under the laws of this State to continue to transact a banking business, provided that any ruling or decision of said State Banking Board shall be subject to review by any

district court having jurisdiction of the persons composing said board upon the suit of any party affected thereby brought within twenty days after the date of such ruling or decision. Said board shall keep a record of its proceedings and findings relative to each bank considered and passed upon, and shall file a certified copy thereof, signed by each member of said board, in the office of the Commissioner, which shall be by him duly recorded in a book to be kept for that purpose.

Sec. 18. Section 2 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby amended so as to hereafter read as follows:

"Section 2. The articles of association shall set out:

"(1). The corporate name of the proposed corporation, which shall not be the name of any corporation heretofore incorporated in this State for similar purposes, or any imitation of such name, and which shall include as part thereof, either the word 'bank' or 'banking.'

"(2). The name of the city or town and county in which the corporation is to be located.

"(3). The amount of the capital stock of the corporation, which shall be divided into shares of \$100 each; that the same has been bona fide subscribed and actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors or managers.

"(4). The name and place of residence of the several shareholders, and the number of shares subscribed by each.

"(5). The number of directors or managers, and the names of those agreed upon for the first year.

"(6). The number of years the corporation is to continue, which in no case shall exceed fifty years."

Such articles shall be signed and acknowledged by the parties thereto, shall be filed in the office of the Commissioner of Insurance and Banking, and when so filed shall be immediately submitted to the Attorney General for his approval, and if found by him to be in accordance with law, he shall so certify and return the same to the Commissioner of Insurance and Banking, who shall record the same in a book to be kept for that purpose, and shall make a certified copy thereof, under his hand and seal, and shall immediately deliver such certified copy to a State bank examiner, by whom he shall cause to be made an examination for the purpose of ascertaining whether the requisite

capital stock of such corporation has been fully paid up as required by the Constitution and laws of this State. No certificate of incorporation under this act shall be valid unless at the time the articles of association were signed and acknowledged, the capital stock therein prescribed shall have been bona fide subscribed and paid up in lawful money of the United States. If, upon such examination, it shall be found that the Constitution and laws have been fully complied with, the person making such examination shall deliver to the president or cashier of said corporation the certified copy of its articles of incorporation, and shall take therefor the receipt of such corporation, and of the person to whom the same shall be delivered. Upon the deliverance of such certified copy and the execution of the receipt therefor and upon the filing for record of such certified copy in the office of the county clerk of the county in which the corporation is to be located, the same shall become valid and effective as to the charter of said corporation, which shall thereupon be allowed to open its doors and engage in business as a State bank. It shall be the duty of the examiner to immediately make a report of such examination under his oath of office to the State Banking Board, whose duties it shall be to forthwith consider and act upon the same and to determine therefrom and from such additional facts as may be submitted for its consideration, or as it may ascertain from other investigation, whether such corporation is solvent and its capital stock unimpaired, and whether its officers and directors are of good general reputation as being competent to properly discharge the duties incumbent upon them as such officers or directors, and whether it is entitled under the laws of this State to transact a banking business.

If the State Banking Board shall have approved the chartering of such bank, upon receipt of its certificate, the Commissioner shall issue to such corporation the certificate of authority above provided for. In case the State Banking Board shall disapprove the report of the examiner, and refuse to certify that such corporation is entitled to a certificate of authority, it shall be the duty of the Commissioner to immediately close the office of such corporation, unless it shall go into voluntary liquidation, and to proceed in the manner provided by law with respect to insolvent banks. All amendments to the charters of all banking corporations

heretofore or hereafter formed shall be filed in the office of the Commissioner of Insurance and Banking and approved by the Attorney General and recorded by said Commissioner, when so approved, in the same manner as original charters.

Sec. 19. Section 10 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby amended so as to hereafter read as follows:

"Section 10. The articles of agreement shall be signed and acknowledged by the parties thereto and recorded in the office of the Commissioner of Insurance and Banking, who shall submit the same to the Attorney General for his approval, and if found by him to be in accordance with the law, he shall so certify and return the same to said Commissioner, who shall record the same in a book to be kept for that purpose and make a certified copy thereof under his hand and seal, and thereafter the same steps shall be taken, and the same course pursued as provided by law with respect to the incorporation of banks of deposit or discount, or both of deposits and discounts."

Sec. 20. Section 5 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature of the State of Texas, is hereby amended, so as to hereafter read as follows:

"Section 5. That hereafter the capital stock of all banking corporations, which shall be fully paid up, shall not be less than \$10,000, if the business is to be transacted in towns or cities having less than 750 inhabitants, nor less than \$25,000 if the business is to be transacted in towns or cities having 750 or more and less than 3000 inhabitants, nor less than \$50,000 if the business is to be transacted in towns or cities having 3000 or more and less than 6000 inhabitants; nor less than \$100,000 if the business is to be transacted in towns or cities having 6000 inhabitants or more. Provided, that a banking corporation may be formed with a capital, with not less than \$50,000, having power to transact business in any city or town having 6000 inhabitants or more, at a point designated in its charter, not less than one mile removed from the place of business, at the time such corporation is formed, of any banking corporation organized under the laws of Texas, or of those of the United States. The population of all towns and cities for the purpose of fixing the minimum capital stock of banks under this act shall be ascertained by the Commissioner of

Insurance and Banking, from such affidavits as may be submitted to him or such proof as he may obtain upon investigation."

Sec. 21. All State banks transacting business in this State shall be required on and after the first day of January, 1910, to hold a certificate of authority to transact a banking business, issued by the Commissioner, in compliance with the provisions of this act, and to keep the same conspicuously posted at all times in the banking house where such business is transacted. Any person, or persons, who shall in any capacity, transact or hold themselves out as transacting business of banking for or on behalf of any State bank or banking or trust company, after the first day of January, 1910, without such bank or banking and trust company shall hold a certificate of authority as herein provided for, except in cases where such certificates shall not yet have been issued to newly incorporated banks as herein provided for, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished for each offense, each day being considered a separate offense, by a fine of not less than \$100 and not exceeding \$1000, or by imprisonment in the county jail for not less than one nor more than twelve months, or by both such fine and imprisonment.

Sec. 22. No State bank shall be entitled to transact the banking business unless its officers and directors are men of good general reputation in the community in which they may reside, as being competent to properly discharge the duties incumbent or to be incumbent upon them as such officers or directors.

Sec. 23. The Commissioner shall, during the month of November, 1909, and of each calendar year thereafter, require the cashier of each State bank which has been so organized and doing business for one year prior to November 1 of each calendar year, to file with him a sworn statement of the average daily deposits of such bank for said year ending November 1; and he shall require the cashiers of all other State banks to each file with him, during said month of November, a sworn statement of the total amount of the capital, surplus and undivided profits of their respective banks, as of said first day of November.

Sec. 24. Immediately after the first day of November, 1909, the State Banking Board, shall for the purpose of creating a State bank guaranty fund,

levy against each guaranty fund bank, which it shall have approved as being entitled to transact the banking business, an assessment of 1 per cent of its average daily deposits for the year ending on the first day of November, 1900, if it shall have transacted business for one year prior to said date, or an assessment of 3 per cent of its total capital, surplus and undivided profits, as of the first day of November, 1909, if it shall not have transacted business for one year prior to that date; provided, that if said assessment shall not, in the aggregate, provide a fund of at least three hundred thousand (\$300,000) dollars, then the same shall be proportionately increased to such percentage of the average daily deposits and of the capital, surplus and undivided profits, respectively, as will provide a fund of that amount, immediately after the first day of December of each year, after 1909, the State Banking Board shall levy and readjust the assessment above provided for in the same manner except that they shall each succeeding year increase the percentage of the assessment upon the average daily deposits of the banks to which such assessment is applicable by one-fourth of 1 per cent, and they shall increase the percentage of assessment upon the capital, surplus and undivided profits of banks to which such assessment is applicable by three-fourths of 1 per cent, until such time as the total amount of said State bank guaranty fund shall equal 5 per cent of the average daily deposits of all of the guaranty fund banks, which have been in business for as much as one year, added to 15 per cent of the capital, surplus and undivided profits of all other guaranty fund banks. Each guaranty fund bank shall pay such assessments by crediting the State bank guaranty fund with the amount thereof upon its books, as of date January 1, next, after the said assessment is made, as a demand deposit, subject to check, upon the order of the State Banking Board, and shall, prior to said date, forward to the Commissioner proper evidence of such credit and each guaranty fund bank shall charge the amount of each such assessment as credited to the State bank guaranty fund upon its books to "interest in State bank guaranty fund," and shall be entitled to treat in its statements of condition and otherwise the amount of its said interest in said fund, as shown by its books, as a portion of its assets; provided, that the amount of its said interest in said fund shall not include any of the amounts paid out upon gen-

eral checks drawn by the order of the State Banking Board. The levy and readjustment of the assessment herein provided for shall be made on such basis as will provide a State bank guaranty fund, as of January 1, of each succeeding year, equal to the percentages herein prescribed of the average annual deposits and capital, surplus and undivided profits, respectively, for each succeeding year, until the maximum percentage herein prescribed shall be attained and thereafter such levy and readjustment shall be made each year upon such a basis as will provide a fund upon January 1, of each year amounting to 5 per cent of the annual deposits and 15 per cent of the capital, surplus and undivided profits, as hereinbefore provided for.

If, in the making of such levy and readjustment, it becomes necessary to reduce the amount of the assessment of any guaranty fund bank, said board shall order a check to be signed by the Commissioner, and countersigned by some other member of said board, designated for that purpose, drawn upon said guaranty fund bank in favor of itself, dated January 1, next thereafter, for the amount of such reduction, which the Commissioner shall forthwith transmit to such bank, and if it shall be necessary to increase the assessment of any guaranty fund bank, it shall direct the Commissioner to notify such bank of the amount of such increase, and require that it credit the State bank guaranty fund with the amount of such increase, as of date the first day of January, next thereafter, and send to the Commissioner proper evidence of such credit, prior to said date. Any State bank which shall become a guaranty fund bank, in accordance with the provisions of this act at any time after the first day of January, 1910, shall, before it shall be issued a certificate of authority to transact a banking business as a guaranty fund bank, shall credit the State bank guaranty fund, as herein before provided, with an amount equal to 1 per cent of its average daily deposits for the year ending November 1, preceding, if it shall have transacted business for that period, or 3 per cent of its capital, surplus and undivided profits, if it shall not have transacted business for such period or 3 per cent of its capital stock and paid in surplus; if any, if a newly incorporated bank, and furnish the Commissioner with proper evidence of such credit. Whenever the amount deposited to the credit of the State bank guaranty fund on the books

of the various guaranty fund banks, shall at any time be reduced by the payment of checks drawn upon them by order of the State Banking Board, for the purpose of paying the guaranteed deposits of any guaranty fund bank as hereinafter provided for, below the amount of such credit as of the 15th day of January next preceding, it shall be the duty of the State Banking Board to immediately levy an assessment based upon the average daily deposits, and upon the capital, surplus and undivided profits, as shown by the sworn statements filed in the preceding November, as herein provided, sufficient to make good such reduction; provided, that the total assessments made for the purpose of making good such reduction shall not exceed 2 per cent of such average daily deposits for any one calendar year, exclusive of the one-fourth of 1 per cent required to be placed to the credit of the bank guaranty fund each year as heretofore stated, and the guaranty fund banks shall immediately furnish the Commissioner proper evidence of such additional credit; but this provision shall not apply to special checks drawn only on certain banks by order of said board as hereinbefore provided.

It shall be the duty of the Commissioner to keep a strict account with each guaranty fund bank, subject to the provisions of this act, in which any portion of the State bank guaranty fund is deposited, in a book to be kept for that purpose, showing all amounts credited to said fund, in each bank, and all checks drawn against the same, and it shall be his duty to immediately notify any such bank of any discrepancy between the status of its account as shown upon his books and any statement made by such bank, or any report of its examination, and he shall also call such discrepancy to the attention of the State Banking Board.

Whenever any guaranty fund bank shall pay off and discharge all its liabilities to its creditors and go into liquidation, for the purpose of voluntarily winding up its affairs and surrender to the Commissioner its certificate of authority, it shall be the duty of the State Banking Board, upon a showing of these facts, to order the Commissioner to draw a check upon such bank, in its favor for the amount of the State bank guaranty fund on deposit therewith, which shall be thereby repaid to it upon such liquidation; provided, nothing in this act shall be construed so as to guarantee interest-bearing deposits in such bank.

It shall be the duty of the State

Banking Board, within ten days after January 1, 1910, to order the Commissioner of Insurance and Banking to draw checks to be countersigned by some other member of said board, designated for that purpose, upon all guaranty fund banks, for 25 per cent of the amount of the State bank guaranty fund held by on deposit each of them or pro rata for the sum of \$100,000, whichever is the greater, and to deposit the proceeds thereof in cash with the State Treasurer of this State, to be held by him for the purposes of this act, and to be paid out by him upon warrants drawn by the Commissioner of Insurance and Banking, upon the order of the State Banking Board, such warrants to be countersigned by some other member of said board, designated for that purpose, as hereinafter provided. Within ten days after the first day of January of each year, after 1910, the State Banking Board shall readjust the proportion of the State bank guaranty fund to be kept in cash on deposit with the State Treasurer, in accordance with the provisions of this section, so that the same shall equal 25 per cent of the amount of the State bank guaranty fund, as of January 1, preceding, or the sum of \$100,000, whichever is the greater. In making such readjustment, it shall return to any guaranty fund bank the amount of such cash theretofore contributed by it and then on deposit, in excess of its pro rata part, or shall draw checks upon any guaranty fund bank necessary to make up its pro rata part as the case may be. The provisions of this section shall apply only to guaranty fund banks, as defined in this act, or to those becoming guaranty fund banks, in accordance with its provisions.

Sec. 25. Whenever the Commissioner shall have reason to believe that the capital stock of any State bank is reduced by impairment or otherwise below the amount required by law or by its certificates of authority or articles of incorporation, he shall present the matter to the State Banking Board for its consideration, and if said board shall determine thereupon that the capital stock of such State bank is impaired to the extent of not more than 25 per cent thereof, the Commissioner shall require such State bank to make good the deficiency within sixty days after the date of such requisition. If said board shall determine that the impairment exceeds 25 per cent of the amount of the capital stock, the Commissioner shall require that such State bank forthwith reduce the amount of such impairment to less

than 25 per cent and to make good the whole impairment within sixty days from the date of such requisition. The Commissioner may examine or cause to be examined any such State bank to ascertain the amount of such impairment and whether the deficiency has been made good, as required by him. The directors of every such State bank upon which such requisition shall have been made shall give notice of such requisition to each stockholder of the corporation and of the amount of the assessment which he must pay for the purpose of making good such deficiency by a written or printed notice mailed to such stockholder at his place of residence or served personally upon him, and a meeting of the stockholders of such bank shall forthwith be called for the purpose of determining whether or not such bank shall make good such deficiency or impairment or liquidate; and if it be decided to make good such deficiency or impairment, each stockholder shall thereupon become liable for, and shall pay his pro rata part of said assessment, and if any stockholder shall refuse or neglect to pay the assessment specified in such notice within the time provided by the requisition of the Commissioner, the directors shall have the right to sell to the highest bidder at public auction the stock of such stockholder, after giving previous notice of such sale for two weeks in a newspaper of general circulation published in the county where the principal office of such corporation is located; or such stock may be sold at private sale and without such published notice; provided, however, that before making private sale thereof an offer in writing to purchase such stock shall be obtained and a copy thereof served upon the owner of record of the stock caused to be sold either personally or by mailing a copy of such offer to such owner at his place of residence or address furnished by him to such State bank; and if after service of such offer such owner shall still refuse or neglect to pay such assessment within two weeks from the time of service of such offer, the said directors may accept such offer and sell such stock to the person or persons making such offer, or to any other person or persons making larger offer than the amount named in the offer submitted to such stockholder; but such stock shall in no event be sold for a smaller sum than the valuation put on it by the Commissioner in his determination and certificate, which valuation shall not be less than the amount of the assessment called for and the necessary costs of sale.

Out of the avails of the stock sold the directors shall pay the necessary cost of sale and the amount of the assessment called for thereon. The balance, if any, shall be paid to the person or persons whose stock has been thus sold. The sale of stock as herein provided shall effect the cancellation of the outstanding certificate or certificates evidencing the stock so sold, and shall make the same null and void, and a new certificate or new certificates shall be issued to the purchaser or purchasers of said stock. If it shall appear to the Commissioner that any State bank has violated its charter or any law binding upon it, he may, by an order under his hand and official seal, addressed to such State bank direct the discontinuance of such violation; or, if it shall appear to the Commissioner that any such State bank is conducting its business in an unsafe or unauthorized manner he may in like manner direct discontinuance of such unsafe or unauthorized practice. Such order shall require such State bank to show cause before the State Banking Board at a time and place to be fixed by the Commissioner why said order should not be observed.

Sec. 26. If the capital stock of any State bank shall be impaired and such impairment is not made good as required by law, or if any such State bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of such State bank, or if it shall violate its charter, or any law of the State, or if such State bank shall suspend payment of its obligations, or if such State bank shall conduct its business in an unsafe or unauthorized manner, or if from any examiner's or other report provided for by law the Commissioner shall conclude that such State bank is in an unsafe or unsound condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, and the Commissioner shall communicate the facts to the Attorney General, an action to procure a judgment dissolving such corporation and forfeiting its charter may be maintained.

Sec. 27. Whenever it shall appear to the Commissioner that any State bank has violated its charter or any law of the State, or is conducting its business in an unsafe or unauthorized manner, or if any such State bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be ex-

amined upon oath touching the concern of any such State bank, or to answer upon oath any interrogatories touching such concern, sent him by the Commissioner through the mails with the request for such answer, within ten days after the same shall have been mailed to him at his address by registered letter, or if any such State bank shall suspend payment of its obligations, or if from any examination or report provided for or authorized by law the Commissioner shall have reason to conclude that such State bank is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe or inexpedient for it to continue business, or if any such State bank shall neglect or refuse to observe an order or requisition of the Commissioner to reduce or make good the impairment in its capital stock, as required by law, the Commissioner may forthwith take possession of the property and business of such State bank and retain such possession until such State bank shall resume business, or its affairs are finally liquidated, as herein provided. On taking possession of the property and business of any such State bank, the Commissioner shall forthwith give notice of such fact to any and all banks, trust companies, associations and individuals holding or in possession of any assets of any such State bank.

No bank, trust company, association or individual knowing of such taking possession by the Commissioner, or notified as aforesaid, shall have a lien or charge for any payment, advance or clearance thereafter made, or liability thereafter incurred against any of the assets of the State bank of whose property and business the Commissioner shall have taken possession as aforesaid. Such State bank may, with the consent of the State Banking Board, resume business upon such condition as may be approved by it, which permission shall be evidenced by a written statement to that effect from the Commissioner. Upon taking possession of the property and business of such State bank, the Commissioner is authorized to collect moneys due to such corporation, and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided. The Commissioner shall collect all debts due and claims belonging to such State bank, and upon the order of the district court, if in session, or the judge thereof, if in vacation, of the county in which it was located and transacting business, may

sell or compound all bad or doubtful debts, and on like order may sell the real or personal property of such State bank on such terms as the court shall direct; and may, if necessary to pay the debts of such State bank, enforce the individual liability of the stockholders. The Commissioner may, under his hand and official seal, appoint one or more special agents to assist him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the Commissioner and a certified copy in the office of the clerk of the county court in which such State bank was located and transacted business. The Commissioner may, from time to time, authorize a special agent to perform such duties connected with such liquidation and distribution as the said Commissioner may deem proper. The Commissioner may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of such State bank, and may retain such of the officers or employees of such State bank as he may deem necessary. The Commissioner shall require from a special agent and from such assistants such security for the faithful discharge of their duties as he may deem proper. The Commissioner shall cause notice to be given by advertisement in such newspapers as he may direct, weekly, for three consecutive months, calling on all persons who may have claims against such State bank to present the same to the Commissioner and make legal proof thereof at a place and within a time not earlier than the last day of publication to be therein specified, which notice shall contain a statement, in larger type than that in which the body of said notice is printed, specifically stating that all such claims of guaranteed depositors must be presented and legal proof thereof made at the place designated within forty-five days after the date which the property and business of such State bank was taken possession of by the Commissioner, and that all claims of guaranteed depositors presented after the expiration of forty-five days shall not be entitled to payment of any portion thereof out of the State bank guaranty fund. The Commissioner shall mail a similar notice to all persons whose names appear as creditors upon the books of the State bank. If the Commissioner doubts the justice and validity of any claim, he may reject the same and serve notice of such rejection upon the claimant, either by mail or

personally. An affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed with the Commissioner. The action upon a claim so rejected must be brought within six months after such service. Claims presented after the expiration of the time fixed in the notice to the creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the Commissioner equitably applicable thereto. Upon taking possession of the property and assets of such State bank, the Commissioner shall make an inventory of the assets of such State bank in duplicate, one to be filed in the office of the Commissioner and one in the office of the clerk of the county court in which such State bank was located and transacting business; upon the expiration of the time fixed for the presentation of claims presented, including and specifying such claims as have been rejected by him, and showing fully all claims and amounts paid to guaranteed depositors out of the State bank guaranty fund, and the amount to which said fund is entitled by reason of its subrogation to the rights of such guaranteed depositors so paid, and all amounts held by him on account of claims of guaranteed depositors, which have been rejected or are in dispute, one to be filed in the office of the clerk of the county court of the county in which such State bank was located and transacted business. Such inventory and list of claims shall be open at all reasonable times to inspection. All compensation of special agents, counsel and other employes and assistants, and all expenses of supervision and liquidation shall be fixed by the Commissioner, subject to the approval of the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was located and transacting business, on notice to such State bank; provided, that the compensation of such special agents shall always be the same as is provided by law for State bank examiners, and shall, upon the certificate of the Commissioner, be paid out of the fund of such State banks in the hands of the Commissioner. The moneys collected by the Commissioner shall be from time to time deposited in one or more State banks, and, in case of the suspension or insolvency of the depository, such deposits shall be preferred before all other deposits. And any time after the expiration of the date fixed for the presentation of claims, the Commissioner

may, out of the funds remaining in his hands, after the payment of expenses, declare one or more dividends, and after the expiration of one year from the first publication of a notice to creditors, he may declare a final dividend, such dividends to be paid to such person and in such manner and upon such notice as may be directed by the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was located and transacted business. In the declaration and payment of all such dividends the State bank guaranty fund shall be entitled to receive as its dividend such portions of the amounts due and payable to guaranteed depositors as shall have been paid to them out of the State bank guaranty fund, together with 6 per cent interest thereon from the date or dates upon which checks were drawn upon all State banks, as hereinafter provided, to provide for the payment of the guaranteed deposits of such State banks, and the Commissioner shall forthwith distribute such dividends to State banks upon which checks were drawn for such payment of guaranteed depositors in proportion to the amounts of such checks, respectively. Objections to any claim not rejected by the Commissioner may be made by any party interested by filing a copy of such objections with the Commissioner, who shall present the same to the district court, if in session, or the judge thereof, if in vacation, at the time of the next application to declare a dividend. The court may make proper provision for unproved or unclaimed deposits. Whenever any such State bank, of whose property and business the Commissioner has taken possession as aforesaid, deems itself aggrieved thereby, it may, at any time within ten days after such taking possession, apply to the district court, if in session, or to the judge thereof, if in vacation, of the district in which such bank is located and transacting business to enjoin further proceedings, and said court, if in session, or the judge thereof, if in vacation, after citing the Commissioner to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties and determining the facts, may, upon the merits dismiss such application or enjoin the Commissioner from further proceedings and direct him to surrender such business and property to such State bank. Whenever the Commissioner shall have paid to each and every depositor and creditor of such State bank (not including stockhold-

ers), except for the amount of their deposits over and above their liability under the law as stockholders, whose claim or claims as such creditor or depositor shall have been duly proven and allowed, the full amount of such claims, and shall have repaid to the State bank guaranty fund all amounts paid out of it to guaranteed depositors of such State bank, together with 6 per cent interest thereon from the date when the checks to provide for such payment were drawn and shall have made proper provision for unclaimed and unpaid deposits or dividends, and shall have paid all the expenses of the liquidation, the Commissioner shall call a meeting of the stockholders of such State bank by giving notice thereof for thirty days in one or more newspapers in the county where such State bank was located and transacted business. At such meeting the stockholders shall determine whether the Commissioner shall be continued as liquidator, and shall wind up the affairs of such State bank, or whether an agent or agents shall be elected for that purpose, and in so determining the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and a majority of the stock shall be necessary to a determination. In case it is determined to continue the liquidation under the Commissioner, he shall complete the liquidation of such corporation, and after paying the expenses thereof shall distribute the proceeds among the stockholders in proportion to the several holdings of stock in such manner and upon such notice as may be directed by the district court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary for a choice. Such agent or agents shall execute and file with the Commissioner a bond, in such amount, with such sureties and in such form as shall be approved by the Commissioner, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the Commissioner shall transfer and deliver to such agent or agents all the undivided and unclaimed or other assets of such State bank then remaining in his hands; and upon such transfer and delivery the said Commissioner shall be discharged from any and all further liability to such State bank and its creditors and stockholders. Such agent or agents shall convert the assets coming into his or their possession into

cash, and shall account for and make distribution of the property of said State bank, as is herein provided in the case of distribution by the Commissioner, except that the expenses thereof shall be subject to the direction and control of the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was located and transacted business. In case of the death, removal or refusal to act of such agent or agents, the stockholders, on the same notice, to be given by the Commissioner, upon proof of such death, removal or refusal to act being filed with him, and by the same vote hereinbefore provided, may select a successor, and shall have the same power and be subject to the same liabilities and duties as the agent originally elected. Dividends and unclaimed deposits remaining unpaid in the hands of the Commissioner for six months after the order for final distribution, shall be by him deposited in some State bank to be designated by the State Banking Board to the credit of the Commissioner in his name of office, in trust for the several depositors with and creditors of the liquidated State bank from which they were received, who are entitled thereto. The Commissioner shall show in his official report the names of the State banks so taken possession of and liquidated, and the amounts of unclaimed and unpaid deposits or dividends, with respect to each of them, respectively. The Commissioner shall pay over the moneys so held by him to the persons respectively entitled thereto, upon the order of the State Banking Board, who shall direct such payment to such persons upon being furnished satisfactory evidence of their right to the same. In case of doubt or conflicting claims, the State Banking Board may require an order of the district court, if in session, or the judge thereof, if in vacation, authorizing and directing the payment thereof. The State Banking Board may apply the interest earned by the moneys held by the Commissioner, or may authorize him to apply the same toward defraying the expenses incurred in the payment and distribution of such unclaimed deposits or dividends to the depositors and creditors entitled to receive the same, and the Commissioner shall include in his official report a statement of the amount of interest earned by such unclaimed dividends. Any State bank may, at any time, place its affairs and assets under the control of the Commissioner by posting a notice on its front door, as

follows: "This institution is in the hands of the Commissioner of Insurance and Banking of the State of Texas." The posting of this notice or of the same notice by the Commissioner or any State bank examiner at any time when he shall have taken possession of the property and business of a State bank, shall be sufficient to place all its assets and property of whatever nature in the possession of the Commissioner and shall operate as a bar to any attachment proceedings whatever.

Sec. 28. When any guaranty fund bank shall voluntarily place itself in the hands of the Commissioner, or when he shall take possession of the property and business of any guaranty fund bank, the State Banking Board shall immediately order the Commissioner to draw a warrant or warrants upon the State Treasurer, in the manner provided in this act, for such portion of the amount of the State bank guaranty fund deposited with the State Treasurer, in cash, as may be necessary to pay in full the amount due the guaranteed depositors of such bank. If the amount so necessary to pay such guaranteed depositors shall exceed the entire amount on deposit with the State Treasurer in cash, the State Banking Board shall immediately order the Commissioner to draw checks, countersigned by some other member of said board designated for that purpose, which shall be known and marked as "special checks" on such of the State banks and for such portions of the amount of the State bank guaranty fund on deposit therewith, respectively, as it may determine and direct, for amounts sufficient in the aggregate in addition to such amount on deposit with the State Treasurer, to pay in full the amount due the guaranteed depositors of said guaranty fund bank. The State Banking Board shall have the right to order additional special checks drawn as above provided, in case they shall find that the amount originally estimated will prove insufficient to pay all guaranteed depositors. Such special checks shall be made payable to the order of some State bank, and shall be deposited by the Commissioner in such bank as a special deposit, for the purpose of paying the guaranteed depositors in the guaranty fund bank of which he shall have taken possession, and shall be subject to his check for that use and purpose. The Commissioner may, if so directed by the State Banking Board, draw upon the sums so deposited in cash upon the checks made payable to himself, for the purpose of paying in cash

the guaranteed depositors of said closed guaranty fund bank. With the fund so provided, the Commissioner shall immediately proceed, either personally or through his special agent, to pay all claims of guaranteed depositors, as they may be presented and proven up, taking receipts therefor in such form as may be prescribed by the State Banking Board. At the expiration of forty-five days after the Commissioner shall have taken possession of the property and business of any guaranty fund bank, whose guaranteed depositors he shall have paid in cash, he shall make report to the State Banking Board of the total amount of guaranteed deposits of such institution, and of the amount of such guaranteed deposits paid by him, and to whom paid, and of the amount of claims presented by guaranteed depositors, which he has rejected and disallowed, and of any amount of cash he has on hand, on account of such claims, and of any amount which he may have paid or contracted to pay out of said State bank guaranty fund in connection with the expenses incident to the payment of such guaranteed deposits, and of the amount remaining in his hands or on special deposit in his name out of the funds provided by special checks for the payment of the guaranteed depositors of such bank, and of the amount of money in his hands belonging to said closed bank, which may be properly paid into the State bank guaranty fund, on account of the guaranteed deposits paid out of such fund. Such report shall be accompanied by proper vouchers for all expenditures so made by the Commissioner or his special agent. The State Banking Board shall thereupon consider such report, and carefully audit the same in connection with the vouchers submitted therewith, and if it approve the same, it shall order the Commissioner to draw checks countersigned by some other member of said board, designated for that purpose, upon all guaranty fund banks, other than those upon whom such special checks were drawn for their respective proportionate amounts of such sum as may be necessary in addition to such amount as may remain unexpended in the hands of the Commissioner out of the proceeds of such special checks, and such amount belonging to said closed bank as may be in his hands, which is due and payable as aforesaid, to the State bank guaranty fund, to repay the amounts drawn by such special checks. Each of the checks so drawn shall be for that proportion of such sum which the amount of the State bank guaranty fund on deposit in

each such guaranty fund bank bears to the total amount of said State bank guaranty fund, and such checks shall be payable to the order of some State bank in which they shall be deposited by the Commissioner to his credit as a special deposit, and against such special deposit he shall immediately draw his check in favor of such of the guaranty fund banks upon whom special checks were drawn for the difference between the amount of such special checks drawn upon each bank and its proportionate amount of the cash raised upon all of such special checks so drawn, and he shall immediately transmit the same to such banks upon whom such special checks were drawn in repayment of the amount advanced by them, over and above the amount proportionately due by them. When any part or all of the cash on deposit with the State Treasurer shall have been used in the payment of the guaranteed deposits of any guaranty fund, it shall be the duty of the State Banking Board, to immediately order the Commissioner of Insurance and Banking to draw checks to be countersigned by some other member of the board, designated for that purpose, upon all guaranty fund banks, for the pro rata part of such sum as may be necessary to restore the amount of such cash on deposit with the State Treasurer, as of January 10, preceding, and to pay the proceeds of such checks to such State Treasurer. The Commissioner, within ninety days after he shall have taken possession of any guaranty bank, shall make a full report to the State Banking Board, showing the amounts collected and disbursed by him in the payment of guaranteed depositors, accompanied by proper vouchers for all disbursements, and showing all amounts remaining in his hands and on what account the same is held, which report shall be carefully audited by the State Banking Board, in connection with the vouchers submitted therewith. A copy of such report shall be recorded in the office of the Commissioner, and a certified copy shall be recorded in the office of the county clerk of the county where such State bank was located and transacted business, and a printed copy shall be mailed by the Commissioner to each guaranty fund bank in the State.

Sec. 29. If the Commissioner, or his special agent, shall disallow or reject any claim presented by a guaranteed depositor, he shall nevertheless include the amount of such disallowed or rejected claim in the amount for the payment of which provision is to be made

out of the State bank guaranty fund, and like provisions shall be made for such claim as for those duly allowed and paid; but the Commissioner shall retain in his hands such an amount pending the final settlement and an adjudication of such rejected or disputed claim, and shall apply the same in payment thereof, if it shall be found that such State bank was legally liable therefor, and shall equitably distribute the same to the various banks in which the State bank guaranty fund is deposited, if it shall be finally determined that such State bank is not so liable.

Sec. 30. Any deposit made by the Commissioner, as provided by this act, in any State bank, for the purpose of providing for the payment of guaranteed depositors, whether of special checks or checks drawn upon all banks in which the State bank guaranty fund may be deposited or otherwise, and all deposits of any portion of the State bank guaranty fund originally credited thereto in any State bank, as provided by this act, shall be preferred before all other deposits in case of the insolvency or suspension of the depository.

Sec. 31. If from the sworn statement of the average daily deposits of any bank for the year ending on the first day of November, 1909, or of any subsequent year, filed with the Commissioner as provided in this act, it shall appear that such average daily deposits for such year amounted to more than five times the capital stock and surplus of such bank on November 1 of such year, if the capital stock of such bank is not more than \$10,000, or more than six times such capital stock and surplus if the capital stock is more than \$10,000 and less than \$20,000, or seven times such capital stock and surplus if the capital stock is \$20,000 or more and less than \$40,000, or eight times such capital stock and surplus if the capital stock is \$40,000 or more and less than \$75,000, or nine times such capital stock and surplus if the capital stock is \$75,000 or more and less than \$100,000, or ten times such capital stock and surplus if such capital stock is \$100,000 or more, then in any such case it shall be the duty of the State Banking Board to require that such State bank shall within sixty days thereafter increase its capital by 25 per cent thereof, and it shall be the duty of the Commissioner to immediately furnish such State bank with a certified copy of the order making such requirement, and upon the receipt of such requisition the directors of such State bank shall,

within the time required, cause such increase to be made in its capital stock, and if the same is not done within such time, it shall be unlawful for such bank to thereafter receive any deposits at any time when its total demand and time deposits shall in the aggregate amount to more than the limitation herein placed upon deposits.

Sec. 32. Section 39 of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as to hereafter read as follows:

"Section 39. It shall be the duty of the Commissioner of Insurance and Banking, at least once in each quarter of each calendar year to cause each banking corporation, subject by law to examination, to be thoroughly and fully examined, and any such corporation may be examined whenever such Commissioner may deem it necessary or expedient. Such Commissioner and the State bank examiners shall have the power to administer oaths to any person whose testimony may be desired for the purpose of any such examinations. The expenses of every general and special examination shall be paid by the corporation examined in such amount as the Commissioner of Insurance and Banking shall certify to be just and reasonable. Provided, such expenses shall be paid in proportion to the amount of capital stock of the various corporations as follows: Those with a capital stock of \$10,000 shall not pay more than \$12.50; those with a capital stock of more than \$10,000 and not exceeding \$25,000 shall not pay more than \$15; those with a capital stock of more than \$25,000 and not exceeding \$50,000 shall not pay more than \$20; those with a capital stock of more than \$50,000 and not exceeding \$100,000 shall not pay more than \$30; those with a capital stock of more than \$100,000 and not exceeding \$250,000 shall not pay more than \$37.50; those with a capital stock of more than \$250,000 and not exceeding \$500,000 shall not pay more than \$75; those with a capital stock of more than \$500,000 and not exceeding \$1,000,000 shall pay not more than \$125; those with a capital stock of more than \$1,000,000 and not exceeding \$2,000,000 shall not pay more than \$150; those with a capital stock of more than \$2,000,000 and not exceeding \$4,000,000 shall not pay more than \$200; and those with a capital stock exceeding \$4,000,000 shall not pay more than \$300.

"The permanent surplus of any such

corporation shall be reckoned in ascertaining the fees for examination as a part of its capital stock. All sums collected as examination fees shall be paid by the Commissioner of Insurance and Banking directly into the State Treasury, to the credit of the general revenue fund. Payments for salaries and expenses of examinations and for expenses of the Commissioner of Insurance and Banking in enforcing this act shall be made upon the certificate of the Commissioner of Insurance and Banking by warrant on the Comptroller upon the State Treasurer.

"The result of each examination shall be certified by the examiner upon the record of the corporation examined, and the report of all examinations made during each year shall be embodied in an annual report pertaining to banking matters, to be made by the Commissioner of Insurance and Banking to the Governor. The result of all such examinations shall be reported semi-annually to the Comptroller."

Sec. 33. Section 44 of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as hereafter to read as follows:

"Section 44. The Commissioner of Insurance and Banking shall from time to time appoint such number of State bank examiners as may be necessary to make the examinations of banking corporations required by law, which number shall at no time exceed one for each forty banking corporations then subject to examination under the laws of this State. As full compensation for the performance of the duties of examiners, each person so appointed shall be entitled to receive a salary of \$2000 per annum, besides necessary traveling expenses. An itemized account of such expenses shall be rendered monthly under oath by each examiner and shall be approved by the Commissioner."

Sec. 34. No State bank shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent a loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale, or, in default thereof, such State bank shall be considered to have its capital stock impaired to the extent of the par value of such shares.

Sec. 35. No State bank shall, at any

time, be indebted or in any way liable, to an amount exceeding the amount of its capital stock at such time, actually paid in and remaining undiminished by losses, or otherwise, except on account of demands of the nature following:

(1) Money deposited with, or collected by such State bank.

(2) Bills of exchange or drafts drawn against money actually on deposit to the credit of such State bank, or due thereto.

(3) Liabilities to the stockholders of such bank on account of the stock held by them and for dividends and undivided profits.

Sec. 36. It shall be unlawful for any such bank to hypothecate or pledge as collateral security for money borrowed upon bills payable or certificates of deposit, or otherwise, its securities to an amount more than 50 per cent greater than the amount borrowed thereon, or for any State bank to issue or execute any bills or other evidence of indebtedness, secured or to be secured, by the pledge or hypothecation of any of its securities which shall not contain a provision that in the event such State bank shall, for any cause, have its property and business taken possession of by the Commissioner, at any time before such pledge or hypothecation shall have been actually foreclosed, a grace of thirty days after the date of such taking possession shall be allowed in which such bank or Commissioner shall be permitted to redeem such securities so hypothecated or pledged by the payment of the amount due as principal and interest on such indebtedness.

Sec. 37. After this act shall take effect, it shall be unlawful for any State bank to make a loan, secured by the stock of any other banking corporation, if by the making of such loan as the total stock of such other banking corporation held by it as collateral, will exceed in the aggregate 10 per cent of the capital stock of such other banking corporation, unless the taking of a greater percentage of such capital stock as collateral shall be necessary, to prevent loss upon a debt previously contracted, in good faith, and any such excess so taken as collateral, or owned by such State bank, shall not be held as collateral or owned by it for a longer period than six months.

Sec. 38. After this act shall take effect, no State bank shall make a loan upon real estate security, directly or indirectly, which shall not be due and payable within five years from the date upon which such loan is made, or a

loan upon other than real estate security which shall not be due and payable not more than one year from the date upon which such loan is made.

Sec. 39. Each director of a State bank, when appointed or elected, shall take an oath that he will so far as the duty devolves upon him, diligently and honestly administer the affairs of such corporation, and will not knowingly violate, or wilfully permit to be violated any of the provisions of the law applicable to such State bank; and he is the owner in good faith, and in his own right, of the number of shares of stock required by law, subscribed by him or standing in his name on the books of the corporation, and that the same is not hypothecated, or in any way pledged as security for any loan or debt, and, in case of re-election or reappointment, that such stock was not hypothecated, or in any way pledged as security for any loan or debt during his previous term. Such oath shall be subscribed by the director making it, and certified by the officer before whom it is taken, and shall be immediately transmitted to the Commissioner, and filed and preserved in his office.

Sec. 40. The directors of every State bank shall hold a regular meeting once a month, at which it shall be the duty of the cashier, or some other officer designated for that purpose by resolution of the board of directors, duly recorded in its minutes, to prepare and submit to each director a written statement of all purchases and sales of securities, and of every discount and loan, exclusive of discounts and loans of less amounts than \$1000, if the capital stock of such State bank be \$100,000 or more, and exclusive of discounts and loans of less than 1 per cent of its capital stock, if it be less than \$100,000, made since the last regular meeting of the board, describing the collateral to the loans so made, as of the date of the meeting at which such statement is submitted. Such statement shall also contain a list giving the aggregate of loans and discounts to each individual, firm, corporation or association, whose liability to such bank has been increased since the last regular meeting of the board, \$1000 or more, if such State bank has a capital of \$100,000 or more, and 1 per cent of its capital stock, if the same be less than \$100,000 together with a description of the collateral to such loans, held by such corporation at the date of the meeting at which such statement is submitted. A copy of such statement shall be immediately mailed to each director

not present at such meeting, whether or not a quorum of such directors shall attend, and a copy thereof together with a list of the directors present at such meeting and of those to whom such statements were mailed, verified by the affidavit of the officer or officers charged with the duty of preparing such statement, shall be filed with the records of such State bank, within one day after such meeting, and be presumptive evidence of the matters therein stated.

Sec. 41. Section 50 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby amended so as hereafter to read as follows:

"Section 50. No bank and no bank or trust company or any member of either, shall, during the time it shall continue in banking or banking and trust operations, withdraw or permit to be withdrawn, either in the form of dividends or otherwise any portion of its capital. If losses have at any time been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by a bank or bank and trust company while it continues its banking and trust operations to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. (All debts due to any State bank on which interest is past due and unpaid for a period of six months unless the same are well secured and in process of collection, shall be considered bad debts within the meaning of this section.)"

"The board of directors of any bank or trust company organized under this act may declare a semi-annual or quarterly dividend, if such dividend has been earned, provided the corporation be fully solvent, without such earnings proposed to be divided. But they shall not declare a dividend at any time when the capital of such corporation shall have become impaired to such an extent that it is not worth in good resources the full amount paid in after the payment of all liabilities, and any officer or director of such corporation who shall assent to declaring and paying dividends where the capital stock is so impaired, shall be personally liable to the creditors of the corporation to the amount of his proportion of the proposed dividend, if any loss occur by reason of the payment of such dividend."

Sec. 42. Section 53 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legisla-

ture of the State of Texas is hereby amended so as to hereafter read as follows:

"Section 53. No incorporated bank, nor trust company, organized under this act, shall loan its money to any individual, corporation or company, directly or indirectly, or permit any individual, corporation or company to become at any time indebted or liable to it in a sum exceeding 25 per cent of its capital stock, or permit a line of loans or credits to any greater amount to any individual, corporation or company, a permanent surplus, the setting apart of which shall have been certified to the Commissioner of Insurance and Banking, may be taken and considered as a part of the capital stock for the purpose of this section, provided such surplus is in amount not less than 50 per cent of the capital stock of said bank; provided, that the provisions of this section shall not be construed as in any wise to interfere with the rules and regulations of any clearing association in this State in reference to the daily balances between banks, and that this section shall not apply to balances due from correspondents subject to draft, and that the discounting of the following classes of papers shall not be included in the limitations placed upon loans and credits by this section, viz.:

"1. The discount of bills of exchange drawn in good faith against actual existing values."

"2. The discount of paper upon the collateral security of warehouse receipts or other written instruments conveying a lien with the right to take immediate possession covering agricultural and manufactured products in store, elevators and warehouses, or conveniently deposited elsewhere under the following conditions:

"(a) That the actual market value of the property held in store and covered by such receipts, if other than cotton and cotton seed products, shall at all times exceed, by at least 25 per cent, the amount loaned upon the same, and if it be cotton or cotton seed products, it shall be at least 10 per centum of the amount loaned upon the same."

"(b) That the full amount of the loans shall at all times be covered by policies of fire insurance issued by companies admitted to do business in this State to the extent of their ability to cover such loans, and then by companies having sufficient paid-up capital to be so admitted, and all such policies shall be made payable in case of loss to the

bank or holder of such warehouse receipts, or other instruments."

Sec. 43. The Commissioner of Insurance and Banking shall have the power from time to time to make such changes in the form of the statements required of each banking corporation as he may deem advisable.

Sec. 44. Every president, director, cashier, teller, clerk or agent of any State bank who embezzles, abstracts or wilfully misapplies any of the moneys, funds or credits of such State bank, or who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree, or who makes any false entry in any book, report or statement of such State bank, with intent in either case to defraud such State bank, or any other corporation, body politic, or any individual person, firm or association, or to deceive any officer of such State bank, the Commissioner of Insurance and Banking, or any examiner or special agent, authorized by law to examine the affairs of any such State bank, and every person who, with like intent, aids or abets any officer, clerk or agent in any violation of this section, shall be deemed guilty of a felony and shall, upon conviction, be imprisoned in the State penitentiary for a term of not less than five years nor more than ten years.

Sec. 45. Any director of a State bank who shall either directly or indirectly borrow any of the funds of such bank in excess of 10 per cent of its capital and surplus without the consent of a majority of the directors of the bank first having been obtained and made a matter of record at a regular meeting of the board, or without the written consent of such majority of the directors other than the borrowers being jointly executed by them and filed in the archives of such bank before the loan is made, and any officer of a State bank who shall knowingly become indebted to such bank, directly or indirectly, in any sum whatever, without the consent of a majority of the board other than the borrower, obtained or recorded, or filed in like manner, and any officer or director of any such State bank who shall knowingly loan or assent to the loaning of any of its funds to any officer, or any of its funds to any director in excess of 10 per cent of its capital and surplus without such consent being first obtained and recorded or filed, or

who shall knowingly permit any such officer or director to become indebted to the bank or liable to it without such consent, shall be deemed guilty of a felony and shall be punished by imprisonment in the State penitentiary for a term of not less than two years.

Sec. 46. Any officer, director or other agent or employe of any State bank, who knowingly and wilfully does any act as such officer, director, agent or employe, which is expressly forbidden by law, or wilfully or knowingly omits to perform any duty imposed upon him by law shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred (\$100) dollars, nor more than one thousand (\$1000) dollars, or by imprisonment in the county jail for not less than three nor more than twelve months, or by both such fine and imprisonment.

Sec. 47. Any officer or director of a State bank, who concurs in any vote or act of the directors of such State bank, or any of them, by which it is intended to make a loan or discount to any director of such State bank, or upon paper, upon which any such director is liable, or responsible to any amount exceeding the amount allowed by law; or any director, officer or employe of any State bank who makes or maintains or attempts to make or maintain a deposit of such State bank's fund with any other bank or banking corporation on condition, or with the understanding, express or implied, with the bank or banking corporation receiving such deposit makes a loan or advance, directly or indirectly, to any director, officer and employe of the corporation so making, or attempting to make or maintain deposit, or any officer, or employe of any State bank who intentionally conceals from its directors any discounts or loans made by it between the regular meetings of its board of directors, or the purchase of any securities or the sale of any of its securities during the same period, or knowingly fails to report to its board of directors, when required to do so by law, all discounts or loans made by it, and all securities purchased or sold by it between the regular meetings of its board of directors, or the purchase of any securities or the sale of any of its securities during the same period, or knowingly fails to report to its board of directors, when required to do so by law, all discounts or loans made by it, and all securities purchased or sold by it between the regular meetings of its board of directors, or

any officer, director or employe of any State bank who shall wilfully and knowingly make any loan or discount for such State bank, at any time when the reserve of such bank required by law to be maintained by it shall be less than 25 per cent of its demand deposits, and until it shall, by collections restore its lawful reserve, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred, nor more than one thousand dollars, or by imprisonment in the county jail for not less than three nor more than twelve months, or by both such fine and imprisonment.

Sec. 48. Any State Bank Examiner, or special agent, who shall knowingly and intentionally fail or refuse to notify the Commissioner of Insurance and Banking in writing, of any violation of the criminal provision of this act or any provision of the Penal Code of this State, involved in any transaction connected with the operation of any State bank, within ten days after the same shall come to his notice or attention, unless such notice shall, within his knowledge, have been previously given by some other bank examiner or special agent, or any Commissioner of Insurance and Banking who shall knowingly and intentionally fail or refuse to notify in writing the county or district attorney charged by law with the duty of prosecution thereof, of any such violation within ten days after the same shall come to his knowledge or attention, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail not less than three nor more than twelve months, or by both such fine and imprisonment, and upon conviction, shall be removed from office.

Sec. 49. Any officer, clerk or agent of any State bank, who shall wilfully certify to any check or checks, before the amount thereof shall have been regularly entered to the credit of the drawer, upon the books of such State bank, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the State penitentiary for not more than one year, or by both such fine and imprisonment.

Sec. 50. Any guaranty fund bank incorporated under the laws of this State, desiring to maintain a savings department or to use or continue to use the

word "savings" as a part of its corporate name, or in or as a part of any sign or advertisement, or in or upon any stationery used or to be used by it, shall establish and maintain a savings department in compliance with the provisions of this section. Such savings department may be established by the board of directors adopting a resolution providing therefor, at a regular meeting, which shall contain a copy of this section, and a certified copy of which shall be filed in the office of the Commissioner of Insurance and Banking, and also recorded in the office of the county clerk of the county in which such bank or banking and trust company is located; such copies to be so filed by banks or banking and trust companies maintaining savings departments and using the word "savings" as above provided at the time this act shall take effect, and which desire to continue to do so, within ninety days from the time this act shall take effect, and to be filed by the banks desiring to establish such savings departments after this act shall take effect prior to the establishment of such department. All banks or banking and trust companies establishing or maintaining a savings department or using the word "savings" as above provided after this act shall take effect, or which having such departments or so using the word "savings" at the time this act shall take effect, shall continue to maintain such departments or to so use the word "savings" more than ninety days thereafter shall keep the business of such department entirely separate and distinct from the general business of the bank or banking and trust company, and shall keep all moneys received as such savings deposits and the funds and securities in which the same may be invested, at all times segregated from and unmingled with the other money and funds of the bank or banking and trust company, and may invest not more than 85 per cent of the total amount of such savings deposits in any of the following classes of securities, and not otherwise, to wit:

(1) In bonds or interest-bearing notes or obligations of the United States, or of those for which the faith of the United States is pledged for the payment of principal and interest.

(2) In bonds of any city, county, town or school district or other subdivision of this State, now organized or which may be hereafter organized, and which is now or may hereafter be authorized to issue bonds under the Constitution and laws of this State, which

has not defaulted in the payment of any part of either principal or interest thereof, within five years previous to making such investments.

(3) In bonds of the State of Texas or of any State in the Union that has not within the last five years previous to making such investment, defaulted in the payment of any part of either principal or interest thereof.

(4) In the first mortgage bonds of any steam or electric railroad, the income of which is sufficient to pay all operating expenses and fixed charges, which has its domicile in the State.

(5) In bonds and notes secured by first mortgage, deed of trust, or other valid first lien on unincumbered improved real estate to run for a term not longer than ten years, situated in the State, worth at least twice the amount loaned thereon, such bonds or notes to be always accompanied by a complete abstract of title to the property mortgaged and an attorney's certificate or title insurance policy in some company incorporated under the laws of this State, certifying said bonds or notes to be a first lien on the land mortgaged.

It shall be the duty of the directors of such bank or banking and trust company, as soon as practicable, to invest the moneys and funds of such savings department, by purchase or otherwise, in the securities above prescribed and from time to time to sell and reinvest the proceeds of such investment, but for the purpose of meeting current demands in excess of the receipts, any of the securities may be sold, or taken up and replaced in cash by the bank or banking and trust company out of its general fund, and there shall be kept on hand at all times not less than 15 per cent of the whole amount of such deposits in actual cash, in such savings department.

It shall be lawful to require sixty days' written notice of the withdrawal of any savings deposit, as provided for in this section, at the option of the bank or banking and trust company. In case of the insolvency or liquidation of any State bank or banking and trust company which shall establish or maintain a savings department under the terms of this section, its savings depositors shall have an exclusive prior lien upon all the assets, including cash, of such savings department, which shall be first applied to the payment of their claims, and the remainder, after they have been paid in full, shall be applied in payment of claims of general creditors. It shall be the duty of the president or vice president and the cashier

of each State bank or banking and trust company maintaining a savings department under the provisions of this section to file with the Commissioner of Insurance and Banking not less than ten days after the first day of each calendar month, a statement of the assets and liabilities of such savings department, upon a form to be prescribed by the Commissioner of Insurance and Banking, and it shall be unlawful for any officer of any State bank or banking and trust company to receive or assent to the receiving of any savings deposits when the last preceding monthly statement, as herein provided for, is not conspicuously posted in the office or room where its business is transacted.

The directors of any guaranty fund bank establishing or maintaining or continuing to maintain a savings department may provide that such rate of interest shall be paid on its savings deposits as it may see fit, payable at such periods and upon such terms and conditions as may be reasonable; provided, that in case the earnings of such savings department are insufficient to pay any interest due upon any savings deposits, such interest or the deficiency therein shall be paid by the bank or banking and trust company out of its general funds. At the end of any period for which such bank or banking and trust company may lawfully declare a dividend upon its stock, it shall be proper to transfer to the general funds of such bank or banking and trust company all accumulated earnings of the said savings department after the payment or credit of all interest due and accrued on savings deposits and the legitimate expenses of such departments have been provided for. In computing the aggregate amount of the average annual deposits of any bank or banking and trust company for the purpose of ascertaining whether or not it shall be required to increase its capital stock as provided in Section 17 of this act, the deposits of its saving department, as provided in this section, shall not be included. All such savings departments shall be governed by the terms and provisions of this act, so far as the same are applicable and are not in conflict with the special provisions of this section, and shall also be governed by such provisions of the laws of this State applicable to savings banks as are not in conflict with any provisions of this act, or of this section, and such reasonable rules and regulations for the control of such savings departments may be adopted and put in force by the board of directors

at any regular meetings or by the stockholders at any annual meeting; provided, that such rules and regulations shall not become effective until they have been submitted to the Commissioner of Insurance and Banking and by him approved.

It shall be unlawful for any officer or director of any State bank or banking and trust company which shall establish or maintain or continue to maintain a savings department or which shall use or continue to use the word "savings" as provided in this section to knowingly misappropriate any moneys or funds belonging to such savings department or to use or consent to the use of any such moneys or funds otherwise than for the payment of lawful demands of savings depositors, and in the making of such investments as are prescribed in this section, and in the payment of such dividends to the shareholders as are allowed by law to be paid therefrom, or to borrow any of the funds belonging to such savings department, or to in any way be an obligor for moneys loaned by or borrowed of such savings department, or to receive or accept directly or indirectly, any commission, brokerage or other valuable thing or favor of any kind by reason or on account of any loan or investment made out of the funds of such savings department, or to sell to such savings department any securities or other investment, or wilfully and knowingly do or perform any act or transaction, by or as a result of which at any time, the assets of such savings department, including cash, shall not at least equal in amount the deposits in such savings department, at least 15 per cent of which shall be actual cash in such savings department.

Any officer or director of any State bank or banking and trust company who shall knowingly violate the provisions of this section shall be deemed guilty of a felony, and shall upon conviction be punished by imprisonment in the State penitentiary for a term of not less than one nor more than five years.

Sec. 51. Any bank or trust company created by virtue of a special act of the Legislature of the State of Texas, that is now and has been for more than three years engaged in the general banking business in Texas and which at the time has only one place of business, and which has heretofore or may hereafter, prior to the taking effect of this law, accepted one or more of the provisions of the Acts of the Twenty-ninth Legislature, known as the State Banking Law, thereby submitting it-

self to the jurisdiction of the State Banking Department, may, with the approval of the Commissioner of Insurance and Banking of the State of Texas, avail itself of the provisions of this act, either as a bond security bank, or as a guaranty fund bank.

Sec. 52. Neither the Commissioner of Insurance and Banking or any regularly appointed clerk or employe of the Department of Insurance and Banking, or any State bank examiner, shall, at any time during his incumbency, be financially interested, directly or indirectly, in any State bank or banking and trust company, subject to the supervision of the Department of Insurance and Banking, or knowingly be or become indebted either directly or indirectly to any such State bank or banking and trust company.

Any officer or employe named in this section violating its provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding \$500, and the venue in such case shall be in the county wherein such State bank or banking and trust company is located. The violation of the provisions of this section shall work a forfeiture of the office or position held by the person guilty of such violation.

Sec. 53. Section 40 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby repealed.

Sec. 54. The fact that if this act shall become a law, as much time as possible prior to the first day of January, 1910, will be necessary for the thorough and strict examination of all State banks and other necessary preparation before that time, and the fact that there are now practically no criminal penalties provided for violating the provisions of the State Banking Laws, constitute an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

And amend the caption so as to read as follows:

A bill to be entitled "An Act to provide for the more effective regulation and supervision of banking corporations; and providing for the better securing of depositors of such corporations; providing for and defining bond security banks; and providing for and defining guaranty fund banks; and providing that all banking corporations

hereafter formed shall avail their depositors of the protection provided for by this act either for bond security banks or guaranty fund banks at their option; and that all banks heretofore incorporated and all banks incorporated prior to the adoption of the Constitution of 1876 and all National banks transacting business in this State, may, if they desire, at their option, voluntarily avail their depositors of the protection afforded by this act, either as bond security banks or guaranty fund banks; amending Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas; prescribing additional regulations and safeguards for the protection of depositors and the safe conduct of banking corporations; prescribing powers and duties of the Commissioner of Insurance and Banking; and creating the State Banking Board and prescribing its powers and duties; and providing for penalties for the violation of this act, and declaring an emergency.

MEACHUM,
GREER,
BRACHFIELD,
PERKINS,
COFER,
HAYTER,
THOMAS,
VEALE,
BRYAN,
HARPER,
HOLSEY,
MAYFIELD.

Senator Hume moved to table the substitute, which motion was adopted by the following vote:

Yeas—13.

Adams.	Senter.
Alexander.	Terrell of Bowie.
Hume.	Terrell of McLennan.
Masterson.	Ward.
Murray.	Watson.
Paulus.	Weinert.
Peeler.	

Nays—10.

Bryan.	Mayfield.
Cofer.	Meachum.
Greer.	Thomas.
Harper.	Veale.
Holsey.	Willacy.

Absent.

Stokes.	Sturgeon.
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PAIRED.

Senator Hayter (present), who would vote "nay," with Senator Real (absent), who would vote "yea."

Senator Brachfield (present), who would vote "nay," with Senator Hudspeth (absent), who would vote "yea."

Senator Kellie (present), who would vote "yea," with Senator Perkins (absent), who would vote "nay."

The amendment by Senator Terrell of McLennan was then adopted by the following vote:

Yeas—26.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Paulus.
Bryan.	Peeler.
Cofer.	Senter.
Greer.	Terrell of Bowie.
Harper.	Terrell of McLennan.
Hayter.	Thomas.
Holsey.	Veale.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.

Absent.

Hudspeth.	Stokes.
Perkins.	Sturgeon.
Real.	

Senator Brachfield offered the following amendment, which was read and adopted:

Amend the bill by adding after Section 28 the following section and numbering the others to conform thereto:

"Neither the Commissioner of Insurance and Banking or any regularly appointed clerks or employes of the Department of Insurance and Banking, or any State bank examiner, shall, at any time during his incumbency be financially interested, directly or indirectly, in any State bank or banking and trust company, subject to the supervision of the Department of Insurance and Banking, or knowingly be or become indebted, either directly or indirectly, in any such State bank or banking and trust company."

"Any officer or employe named in this section violating its provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding \$500, and the venue in such case shall be in the county wherein such State bank or banking and trust company is located. The violation of the provisions of this section shall work a forfeiture of the office or position held by the person guilty of such violation."

BRACHFIELD,
ALEXANDER.

Senator Brachfield offered the following amendment, which was read and adopted:

Amend the bill by adding another section after Section 28, to read as follows and renumbering the other sections to conform thereto:

"Any officer, clerk or agent of any State bank, who shall wilfully certify to any check or checks, before the amount thereof shall have been regularly entered to the credit of the drawer, upon the books of such State bank, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment in the State penitentiary for not more than one year, or by both such fine and imprisonment."

BRACHFIELD,
ALEXANDER.

Senator Brachfield offered the following amendment, which was read and adopted:

Amend the bill by adding after Section 28, the following section and renumbering to conform thereto:

"Any State bank examiner, or special agent, who shall knowingly and intentionally fail or refuse to notify the Commissioner of Insurance and Banking in writing of any violation of the criminal provisions of this act within ten days after the same shall come to his notice or attention, unless such notice shall, within his knowledge, have been previously given by some other bank examiner or special agent, or any Commissioner of Insurance and Banking who shall knowingly and intentionally fail or refuse to notify in writing the county or district attorney charged by law with the duty of the prosecution thereof, of any such violation within ten days after the same shall come to his knowledge or attention, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than one hundred, nor more than five hundred dollars, or by imprisonment in the county jail for not less than three nor more than twelve months, or by both such fine and imprisonment, and upon conviction shall be removed from office."

BRACHFIELD,
ALEXANDER.

Senator Harper offered the following amendment:

Amend by adding after Section 28, the following section and renumbering the sections to conform thereto:

"The members or member of the bank-

ing board who do not reside in the city of Austin and who do not receive an annual salary, should be paid the sum of \$10 per day for each day he shall serve on said banking board, and 3 cents per mile for each mile traveled going to and returning from said meeting; provided no salary as members of the board shall be paid to the Lieutenant Governor while the Legislature is in session, or serving as acting Governor."

ALEXANDER,
HARPER.

(Senator Veale in the chair.)

Senator Terrell of Bowie offered the following amendment to the amendment:

Amend the amendment by striking out the following: "Who do not reside in the city of Austin and."

The amendment to the amendment was read and adopted.

The amendment, as amended, was then adopted.

(Lieutenant Governor Davidson in the chair.)

Senator Watson offered the following amendment, which was read and adopted:

Amend the bill by striking out all of Sections 13 and 23 and insert in lieu thereof the following, and by renumbering the sections correctly:

"Provided, that any bank operating under either form of guaranty herein provided for shall advertise the fact as to such guaranty it is operating under the following language: 'This bank has contributed its proportion of the guaranty fund as required by law to secure its depositors and is operating under said clause of the law' or 'this bank has given bond to secure its depositors, approved by the county judge of..... county and Attorney General of Texas and now on file as required by law,' as the case may be.

"Any violation of the form of advertisement herein prescribed shall be ground for a prosecution against said bank so violating said provision, and it is hereby made the duty of the Commissioner of Banking of this State to immediately institute a prosecution against the officers and directors of such bank for any violation of said clause, and the officers and directors of any bank permitting any other advertisement than the one herein stipulated with reference to said guaranty of deposits to be made shall, upon conviction, be fined in any sum not less than one hundred dollars nor more than one thousand

dollars, or by imprisonment in the county jail not to exceed twelve months; said offense is hereby defined to be the unlawful advertising of a plan of securing depositors adopted by said bank; provided, that it shall constitute a violation of this act for any bank to advertise in the newspapers, or in any circulars, bill heads, letter heads, or in any other manner, the plan adopted by such bank for the purpose of securing its depositors other than above stipulated, and it shall constitute and is hereby made an offense for the officers or directors of any banking institution in this State adopting either of the above plans of guaranty to directly, or indirectly, advertise that the State guarantees the deposits in the bank of which they are directors or officers, and upon conviction they shall be fined as above provided."

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill by inserting a new section before the emergency clause, and properly numbering to read as follows: "Sec —. The provisions of this act shall be held to be cumulative of all laws now in force applicable to State banks."

Senator Alexander offered the following amendment:

Amend the bill by inserting a new section to be numbered properly before emergency clause, and renumbering the following sections:

"It shall be unlawful for any State bank or trust company in this State to directly or indirectly loan to any person interested in or employed by the department of the State Insurance and Banking Department, and it is hereby expressly provided that a violation of this provision shall upon conviction, be punished by a fine of not less than \$100 nor more than \$1000; and it is also expressly provided that no warrant or account shall be audited by the Comptroller or paid by the State Treasurer to any person in the employment of the Insurance and Banking Department in this State, unless the person to whom same is payable shall make the following oath:

"I,, do solemnly swear that I am not directly or indirectly indebted to any State bank or trust company in any sum of money whatever, and so far as I know I am not liable to any State bank or trust company in any sum of money either as principal, surety or indorser, directly or indirectly, and that I am not interested

either directly or indirectly as a stockholder or otherwise in any State bank or trust company."

ALEXANDER,
WARD.

Senator Watson offered the following amendment to the amendment:

Amend the amendment by adding after the words "loan to," in line 4, the following:

"The Commissioner of Insurance and Banking or."

The amendment to the amendment was adopted.

The amendment, as amended, was then adopted.

Senator Hume offered the following substitute for the bill:

Substitute for amendment as amended by striking out all after the words "a bill" and insert the following:

To be entitled

An Act to require each corporation organized under the laws of this State to do a banking business or to receive funds on deposit to file annually with the Superintendent of Banking for the State a bond, or policy of insurance, or other guaranty of indemnity, to be approved by the county judge of the county in which such business is domiciled and by such Superintendent, to secure the depositors in such bank or other depository at such time and for the succeeding year, and fixing the terms of such bond, policy of insurance, or other guaranty of indemnity, and authorizing any other person, firm or corporation doing a banking business in the State, or receiving funds on deposit, to take the benefit of the provisions of this act, and providing for the issuance of certificates, by the Superintendent of Banking, showing compliance with the provisions of this act, and providing for the enforcement of the terms and conditions of such bond, or policy of insurance, or other guaranty of indemnity, and providing for the forfeiture of the charter of any corporation organized under the laws of this State to do a banking business or to receive funds on deposit which shall fail or refuse to comply with the provisions of this act, and providing that any corporation not incorporated under the laws of Texas, and transacting business in the State under a permit therefrom which shall violate the provisions of this act shall not receive another per-

mit from the State, and that the makers or signers as sureties of any bond, or policy of insurance, or other guaranty of indemnity executed hereunder upon making payments thereunder shall be subrogated to the rights of the depositors for whose benefit such payments shall be made, and providing penalties for the violation of the provisions of this act and for their enforcement, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall be the duty of each banking corporation, or other corporation receiving funds on deposit, created under the laws of the State of Texas and transacting business in the State, to file annually with the Superintendent of Banking a bond, policy of insurance, or other guaranty of indemnity in an amount equal to twice the amount of its capital stock, which said bond, policy of insurance or other guaranty of indemnity shall be for and inure to the benefit of all depositors. Such instrument and the security thereby provided shall be approved by the county judge of the county in which such business is domiciled, and by the Superintendent of Banking, and shall take effect and be in force from and after the time it is approved and filed in the office of the Superintendent of Banking. Every such corporation shall comply with the provisions of this act within thirty days after the time said act shall take effect, and every such corporation that may hereafter be incorporated shall comply with the provisions of this section before it shall be permitted to receive deposits. Every such bond, or policy of insurance, or other guaranty of indemnity filed as provided for in this act shall secure depositors at the time said bond is filed and approved and all deposits made during the period of twelve months thereafter.

Sec. 2. Any person, firm or corporation other than as described in Section 1 hereof transacting lawfully a banking business in this State, or lawfully receiving funds on deposit, shall be authorized to take advantage of the provisions of this act and to file with the Superintendent of Banking a bond, or policy of insurance or other guaranty of indemnity. Any such corporation shall, in such event, file a bond, or policy of insurance, or guaranty of indemnity in like amount as it would be required to file if incorporated under the laws of

Texas. Any such person or firm transacting the business of a private bank shall in such event file a bond, or policy of insurance, or other guaranty of indemnity in an amount equal to the average of the daily deposits with such person or firm for the preceding period of twelve months; provided, that no person or firm shall be permitted to take the benefit of this act unless such person or firm shall have been engaged in such business in the State of Texas for the period of at least twelve months; provided, that any such person, firm or corporation shall submit to the Superintendent of Banking such reports and statements concerning its deposits and concerning the solvency of such bond, or policy of insurance, or other guaranty of indemnity as he may require in order to enable him to determine the sufficiency of such bond, or policy of insurance, or other guaranty of indemnity, and shall pay all such reasonable expenses as may be incurred by him in the making of an examination thereof; provided further, that such bond, policy of insurance or other guaranty of indemnity shall be approved by the county judge and the Superintendent of Banking, and filed with said Superintendent of Banking as provided for in Section 1 hereof.

Sec. 3. In the event of default by any person, firm or corporation transacting such business of receiving deposits which shall make, execute or file the bond, or policy of insurance, or other guaranty of indemnity provided for herein, in the payment of a deposit lawfully demanded, it shall be the duty of the Superintendent of Banking, when such default shall be made known to him, to report the same to the Attorney General of the State, and to give notice thereof to each and all persons who may be obligated by reason of such default and of the conditions of such bond, or policy of insurance, or other guaranty of indemnity, and upon the mailing of such notice, the full amount of the same shall thereby become due and payable.

When any bond, or policy of insurance, or other guaranty of indemnity provided for herein shall become due and payable in accordance with the provisions of this act, it shall be the duty of the makers and signers thereof to pay over the full amount of the same to the Superintendent of Banking, or such part thereof as he may demand, to be held by him in trust for the depositors with the person, firm or corporation furnishing such bond, or policy of in-

insurance, or other guaranty of indemnity. All proceeds thus arising, either from voluntary payment or otherwise, shall be payable to the Superintendent of Banking and shall be by him promptly paid over pro rata to unpaid depositors upon presentation to him of satisfactory proofs of their claims, which proofs shall be received and filed, and before payment thereof shall be approved by him.

In the event any maker or signer as surety of such bond, or policy of insurance or other guaranty of indemnity shall be a corporation incorporated under the laws of Texas and it shall refuse or fail to pay over upon demand therefor, as herein provided, the full amount due by it upon such bond, or policy of insurance or other guaranty of indemnity, its charter shall thereby become subject to forfeiture, and it shall be the duty of the Attorney General upon receiving notice thereof from the Superintendent of Banking to bring suit in the district court of Travis county, Texas, to forfeit such charter, and upon hearing thereof, decree and judgment may be rendered annulling and forfeiting the charter of such corporation.

In the event any maker or signer as surety of such bond, or policy of insurance, or other guaranty of indemnity shall be a corporation incorporated elsewhere than in the State of Texas and transacting business in this State under a permit from the State, and it shall refuse or fail to pay over on demand therefor by the Superintendent of Banking, as herein provided, the full amount of its liability upon any such bond, or policy of insurance, or other guaranty of indemnity, it shall thereupon be the duty of the Superintendent of Banking to notify the Secretary of State of said facts, and it shall be the duty of the Secretary of State and the Superintendent of Banking and the Commissioner of Insurance thereafter to refuse to issue any permit to said corporation to transact business in the State until it shall show to the satisfaction of such officers that it has fully discharged its liability upon such bond, or policy of insurance, or other guaranty of indemnity upon which default was thus made.

In the event such person, firm or corporation in default in the payment of a default lawfully demanded shall so continue for the period of ninety days from the beginning thereof, and the obligation of such bond, or policy of insurance, or other guaranty of indemnity is

not discharged, it shall be the duty of the Attorney General, or any district or county attorney acting at his instance, to bring suit upon such bond, or policy of insurance, or other guaranty of indemnity in the name of the Governor and for the benefit of all persons who may be beneficiaries thereof by reason of its terms and conditions. Such suit shall be instituted in the district court of the county where the person, firm or corporation furnishing such bond, policy of insurance, or other guaranty of indemnity transacted such business at the time of the filing thereof. Any action upon such bond or policy of insurance, or other guaranty of indemnity shall be brought within twelve months of the date therein fixed for the termination thereof.

Sec. 4. Whenever any maker or signer of any bond, or policy of insurance, or other guaranty of indemnity other than the principal therein shall be required under the provisions of this act to pay over for the benefit of the depositors with any person, firm or corporation, any sum or sums of money, such maker or signer making or participating in such payment shall thereby become subrogated to the rights of a depositor to the extent of the payment or payments so made, and entitled to assert such right in accordance with the laws of the State, secondary and subject to the rights of all depositors secured by such bond, or policy of insurance or other guaranty of indemnity.

Sec. 5. The Superintendent of Banking shall charge a fee of not to exceed \$20 against each corporation incorporated under the laws of the State to do a banking business or to receive funds on deposit for the examination of the bond, or policy of insurance, or other guaranty of indemnity provided for in Section 1 and the examination of the solvency thereof and for the filing of the same, and shall be authorized to charge an examination fee sufficient to cover the actual expenses thereof against any other person, firm or corporation permitted to file such bond, or policy of insurance, or other guaranty of indemnity under the provisions of this act.

Sec. 6. The bond, or policy of insurance, or other guaranty of indemnity herein provided for shall contain substantially the following provisions:

The State of Texas,

County of.....

Know all men by these presents:

That we
as principal, and.....

and as sureties, are held and firmly bound unto the Governor of the State of Texas, and his successors in office in trust for the benefit of depositors in the sum of dollars, payable as provided by the law of Texas at the time of the execution hereof, conditioned that the above bound will pay upon demand, or in accordance with its certificates of deposit, to the persons entitled thereto all deposits in said bank at the date of said bond and all other deposits made therein during the period of one year from the date thereof. Upon payment of any sum or sums made obligatory by reason of the terms hereof, any surety hereon making or participating in such payment shall thereby be subrogated to the rights of a depositor and entitled to assert such rights in accordance with the laws of the State, secondary and subject to the rights of all depositors secured by the terms hereof.

Sec. 7. The security for the benefit of depositors provided for by this act may be divided into two or more bonds, policies of insurance, or other guaranties of indemnity, or any part thereof may be given in either of such forms of guaranty of indemnity; provided, that the aggregate thereof shall be equal to the total amount of the security required in accordance with the provisions of this act.

Sec. 8. Whenever the deposits of any corporation incorporated under the laws of Texas which shall have filed a bond, or policy of insurance, or other guaranty of indemnity with the Superintendent of Banking in accordance with the provisions of this act shall exceed five times the amount of its capital, it shall be its duty to furnish, in addition to the security theretofore so given, additional security for the protection of its depositors, which additional security shall consist of one or more bonds, or policies of insurance, or other guaranties of indemnity, as herein provided, in a sum or sums which shall, in the aggregate, be equal to the total amount of such excess of deposits above five times the amount of the capital of such corporation. In the event any such corporation shall refuse or fail to comply with the provisions of this section, after demand by the Superintendent of Banking, it shall be his duty to report the facts to the Attorney General, who shall thereupon institute suit in the district court of Travis county to forfeit the charter of such corporation, and such court shall, upon hearing and proof

thereof, enter decree and judgment therein forfeiting and annulling the charter of such corporation.

Sec. 9. If any corporation organized under the laws of this State to do a banking business or to receive funds on deposit shall fail or refuse to file the bond, or policy of insurance, or other guaranty of indemnity provided for in Section 1 hereof in accordance therewith, it shall be the duty of the Superintendent of Banking to promptly report such failure to the Attorney General, who shall thereupon institute suit in the district court of Travis county to forfeit the charter of such corporation, and such court shall, upon hearing and proof thereof, enter decree and judgment therein forfeiting and annulling the charter of such corporation.

Sec. 10. If at any time it shall appear to the Superintendent of Banking that any bond, or policy of insurance, or other guaranty of indemnity filed as provided for herein by any corporation organized under the laws of Texas is insufficient, he shall have the authority, and it shall be his duty, to require such corporation to file new or additional security in an amount sufficient to protect its depositors in accordance with the provisions of this act. In the event such corporation shall refuse or fail to comply with such order or requirement of the Superintendent of Banking, he shall communicate the facts to the Attorney General, who shall thereupon institute such proceedings and take such steps as the nature of the case may require. The Superintendent of Banking and the Attorney General shall in such event have and exercise, for the protection of depositors, all the authority conferred upon them by Section 40 of Chapter 10 of the General Laws enacted at the First Called Session of the Twenty-ninth Legislature.

Sec. 11. The Superintendent of Banking shall issue to every person, firm or corporation acting hereunder and entitled thereto a proper certificate showing compliance with the provisions of this act and the amount and nature of the security furnished. Such person, firm or corporation shall post such certificate conspicuously in its place of business, and may publish or advertise said certificate, or the facts recited therein; provided, any person, firm or corporation which shall falsely publish, advertise or represent or cause to be falsely published, advertised or represented any statement of compliance with the provisions of this act, or any false statement as to

the terms of such certificate, or the facts recited in said certificate shall be deemed guilty of a misdemeanor and shall be punished for each offense by fine not to exceed \$1000.

Sec. 12. The fact that no adequate provision now exists for the execution and filing of bonds or other indemnities for the protection of depositors in banking, and other concerns receiving funds for deposit in this State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

SENTER,
HUME.

Pending the reading of the substitute, on motion of Senator Hume, the same was dispensed with.

Senator Harper moved to table the substitute, which motion to table was adopted by the following vote:

Yeas—14.

Alexander.	Meachum.
Bryan.	Stokes.
Cofer.	Terrell of Bowie.
Greer.	Terrell of McLennan.
Harper.	Veale.
Holsey.	Ward.
Mayfield.	Willacy.

Nays—10.

Adams.	Paulus.
Hume.	Peeler.
Kellie.	Senter.
Masterson.	Watson.
Murray.	Weinert.

Absent.

Perkins.	Thomas.
Sturgeon.	

PAIRED.

Senator Hayter (present), who would vote "yea," with Senator Real (absent), who would vote "nay."

Senator Brachfield (present), who would vote "yea," with Senator Hudspeth (absent), who would vote "nay."

RECESS.

Senator Murray here moved that the Senate recess until 3 o'clock, which motion was adopted by the following vote:

Yeas—16.

Adams.	Murray.
Bryan.	Paulus.
Cofer.	Peeler.
Harper.	Senter.
Hayter.	Terrell of Bowie.
Hume.	Watson.
Kellie.	Weinert.
Masterson.	Willacy.

Nays—9.

Alexander.	Stokes.
Brachfield.	Terrell of McLennan.
Holsey.	Veale.
Mayfield.	Ward.
Meachum.	

Absent.

Greer.	Real.
Hudspeth.	Sturgeon.
Perkins.	Thomas.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

EXECUTIVE MESSAGE.

Executive Office,
State of Texas,

Austin, Texas, April 29, 1909.

To the Legislature.

By virtue of authority vested in me by Section 40, Article 3, of the Constitution of the State of Texas, I hereby designate and present to you for your consideration and for legislation thereon the following subjects:

1. Legislation establishing additional county courts for civil and criminal business, or with criminal jurisdiction alone; and to prescribe the jurisdiction and organization and the practice in such courts; and to provide for appeals thereto and therefrom and for the transfer of causes from county courts to such new courts as may be created; and to fix the terms thereof; and to prescribe the qualifications and powers of the judges of such courts; and to provide for their appointment; and to fix the compensation of such courts and of the judges of the county courts.

2. Legislation amending Section 2 of House bill No. 68, passed at the Regular Session of the Thirty-first Legislature, relating to occupation tax on all retail dealers in non-intoxicating malt liquors, etc.; to provide for the issuance of licenses; and fixing penalties so as

to prevent persons taking out such licenses from carrying on business under said licenses in more than one place under such licenses at the same time.

T. M. CAMPBELL,
Governor of Texas.

SENATE BILL NO. 4.

Action recurred on Senate bill No. 4 and

Senators Meachum and Harper offered the following amendment:

Amend the bill as amended by adding just before the emergency clause a new section, to be numbered properly to fit the bill as amended, to read as follows:

Section 53 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as hereafter to read as follows:

"Section 53. No incorporated bank, nor trust company, organized under this act, shall loan its money to any individual, corporation or company, directly or indirectly, or permit any individual, corporation or company to become at any time indebted or liable to it in a sum exceeding 25 per cent of its capital stock, or permit a line of loans or credits to any greater amount to any individual, corporation or company, a permanent surplus, the setting apart of which shall have been certified to the Commissioner of Insurance and Banking, may be taken and considered as a part of the capital stock for the purpose of this section, provided such surplus is in amount not less than 50 per cent of the capital stock of said bank; provided, that the provisions of this section shall not be construed as in any wise to interfere with the rules and regulations of any clearing association in this State in reference to the daily balances between banks, and that this section shall not apply to balances due from correspondents subject to draft and that the discounting of the following classes of papers shall not be included in the limitations placed upon loans and credits by this section, viz.:

"1. The discount of bills of exchange drawn in good faith against actual existing values.

"2. The discount of paper upon the collateral security of warehouse receipts or other written instruments conveying a lien with the right to take immediate possession covering agricultural and manufactured products in store in elevators and warehouses, or conveniently deposited elsewhere under the following conditions:

"(a) That the actual market value of the property held in store and covered by such receipts, if other than cotton or cottonseed products, shall at all times exceed, by at least 25 per cent, the amount loaned upon the same, and if it be cotton or cottonseed products, it shall at least exceed 10 per centum of the amount loaned upon the same.

"(b) That the full amount of the loans shall at all times be covered by policies of fire insurance issued by companies admitted to do business in this State to the extent of their ability to cover such loans, and then by companies having sufficient paid-up capital to be so admitted, and all such policies shall be made payable in case of loss to the bank or holder of such warehouse receipts, or other instruments."

Pending discussion on the above amendment, Senator Mayfield moved the previous question on the same, which being duly seconded, was so ordered.

Action recurred on the amendment by Senator Meachum, and the same was lost by the following vote:

Yeas—8.

Bryan.	Mayfield.
Greer.	Meachum.
Harper.	Stokes.
Holsey.	Ward.

Nays—17.

Adams.	Peeler.
Alexander.	Senter.
Cofer.	Terrell of Bowie.
Hayter.	Terrell of McLennan.
Hume.	Veale.
Kellie.	Watson.
Masterson.	Weinert.
Murray.	Willacy.
Paulus.	

Absent.

Brachfield.	Real.
Hudspeth.	Sturgeon.
Perkins.	Thomas.

Senator Senter offered the following amendment:

Amend the bill by adding thereto just before the emergency clause a new section, to be properly numbered and renumbering the emergency clause accordingly; said new section to read as follows:

"Sec. — It shall be unlawful for the Commissioner of Insurance and Banking, or for any agent or employe of the banking department, to seek or attempt, directly or indirectly, to con-

trol or influence the action of any bank under the supervision of such department, or of any officer or employe thereof, with respect to the course of business of such bank, except in pursuance of authority conferred by law. Any person violating the provisions of this section shall be adjudged guilty of a misdemeanor and shall be punished by fine of not less than one hundred dollars and not more than one thousand dollars, and shall also be subject to removal from office or from employment in the banking department."

The amendment was read and lost by the following vote:

Yeas—6.

Adams.	Paulus.
Hume.	Senter.
Kellie.	Watson.

Nays—18.

Alexander.	Meachum.
Brachfield.	Murray.
Bryan.	Peeler.
Cofer.	Stokes.
Greer.	Terrell of Bowie.
Harper.	Terrell of McLennan.
Holsey.	Veale.
Masterson.	Weinert.
Mayfield.	Willacy.

Absent.

Hudspeth.	Thomas.
Perkins.	Ward.

-PAIRED.

Senator Hayter (present), who would vote "nay," with Senator Real (absent), who would vote "yea."

Senator Mayfield offered the following amendment:

Amend the bill by striking out all of Section 2 down to the word "said," in line 4, just before the word "board," and insert in lieu thereof the following:

"A State Banking Board is hereby created which shall consist of the Commissioner of Insurance and Banking and two citizens, residents of this State, who shall be practical business men of at least five years' experience in the banking business, to be appointed by the Governor, which latter two members of said board shall each receive as compensation for such services the sum of ten dollars per day while actually engaged in discharge of their duties as members of said board."

Senator Terrell of McLennan moved the previous question on the amend-

ment and the engrossment of the bill, which motion being duly seconded, was so ordered.

Senator Watson made a point of order that a similar amendment to the bill had already been adopted.

Senator Veale was called to the chair and overruled the point of order.

The amendment was lost by the following vote:

Yeas—8.

Bryan.	Holsey.
Cofer.	Mayfield.
Greer.	Meachum.
Harper.	Terrell of Bowie.

Nays—17.

Adams.	Senter.
Alexander.	Stokes.
Hayter.	Terrell of McLennan.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Murray.	Weinert.
Paulus.	Willacy.
Peeler.	

Absent.

Perkins.	Sturgeon.
Real.	Thomas.

-PAIRED.

Senator Brachfield (present), who would vote "yea," with Senator Hudspeth (absent), who would vote "nay."

Bill read second time and ordered engrossed.

On motion of Senator Terrell of McLennan, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—25.

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Senter.
Cofer.	Stokes.
Greer.	Terrell of Bowie.
Harper.	Terrell of McLennan.
Hayter.	Veale.
Holsey.	Ward.
Hume.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.
Meachum.	

Nays—1.

Absent.

Hudspeth.	Sturgeon.
Perkins.	Thomas.
Real.	

The bill was read third time, and Senator Holsey offered the following amendment:

Amend by adding the following new section to be known as Section —, prior to the emergency clause and numbering same:

Sec. —. All corporations exercising banking and discounting privileges, created by the Acts of the Legislature of the State, or under any general law, prior to the adoption of the Constitution of this State in 1876, shall be subject to be examined and shall make reports in accordance with the following provisions:

It shall be the duty of the Commissioner of Insurance and Banking, as often as he is required by law to examine State banks, and as often as he deems expedient, either personally or by examiner, to examine each of said corporations, and he or the examiner for him, shall have the power to administer oaths to any person whose testimony may be required in any such examination; and whenever it shall appear to the Commissioner of Insurance and Banking on any such examinations that any such corporation is insolvent, or is acting beyond the powers granted by its charter, or violating any law of this State applicable thereto, he shall communicate the facts to the Attorney General, to be acted upon by him as the law requires.

The expense of such examinations shall be paid by the corporation in such amount as the Commissioner of Insurance and Banking believes justifiable and reasonable, not to exceed the sum in proportion to capital (paid up) and surplus now fixed as maximum charge for the examination of banks organized under the provisions of Chapter 10 of the General Laws of Texas, passed by the First Called Session of the Twenty-ninth Legislature, and fully set forth in Section 39, Chapter 10, and all such examination fees, so collected, shall be paid directly to the State Treasurer and credited to the State bank examination fund.

The result of every such examination shall be certified by the examiner upon the records of the corporation examined and the result of all examinations during the previous years shall be embodied in a report by the Superintendent to the Legislature. The result of all such examinations shall be reported semi-annually to the State Comptroller. The board of directors of any such corporation, whenever required by the Commissioner of Insurance and Banking,

shall furnish a statement on such form as may be required by the Commissioner of Insurance and Banking, to be filed in his office under oath by notary public, by the president, cashier or secretary, and three directors, of the actual condition and the affairs of the corporation at the close of business on the day designated.

Said statement shall be published in a newspaper in any county where such corporation is located, and a copy of such statement shall be posted in place of business of such corporation accessible to the public.

The powers of the Commissioner of Insurance and Banking, in making such examinations, shall extend no further than to obtain facts bearing upon solvency or insolvency of any such corporations, and whether it is acting within the powers granted to it under its charter and obeying the laws of the State applicable thereto, and the powers granted to it by its charter shall in no way be affected by this act, and any such corporation shall have the right to continue exercising such powers that it is now lawfully exercising under its original charter name or under any other name to which it may have been changed by amendment made to its charter under and by virtue of the laws of Texas.

Any such corporation so long as it is found solvent by the Commissioner of Insurance and Banking, may be approved by him as the reserve agent for any other bank organized under the provisions of Chapter 10 of the General Laws passed by the Twenty-ninth Legislature of the State of Texas, at the Special Called Session of same, in the same manner and same ruling applicable to banks incorporated under said Chapter 10.

Any officer, director, agent or employe of any such banking corporation, having or exercising banking or discounting privileges, incorporated and organized under and by virtue of any general or special law of this State passed prior to the adoption of the Constitution in 1876, who shall refuse to make or file any statement required by this act, or any statement called for by the Commissioner of Insurance and Banking, or who shall wilfully make such statement falsely, or who shall fail and refuse to submit the books, papers and accounts of such banking corporation for the inspection of any bank examiner upon request, or answer, under oath, any question propounded by said examiner, or who shall knowingly and

wilfully violate any of the provisions of this act, he or they, or each of them, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine not exceeding five thousand dollars nor less than five hundred dollars, or by imprisonment in the county jail for not less than one nor more than twelve months, or by both such fine and imprisonment. And provided further that if this section is declared to be unconstitutional by the courts, that it shall not affect any other part of this act.

Senator Terrell of McLennan moved the previous question on the amendment and the bill, which motion being duly seconded was so ordered.

The amendment was adopted by the following vote:

Yeas—18.

Alexander.	Meachum.
Brachfield.	Peeler.
Bryan.	Stokes.
Cofer.	Terrell of Bowie.
Greer.	Thomas.
Harper.	Veale.
Hayter.	Ward.
Holsey.	Weinert.
Mayfield.	Willacy.

Nays—9.

Adams.	Paulus.
Hume.	Senter.
Kellie.	Terrell of McLennan.
Masterson.	Watson.
Murray.	
	Absent.
Hudspeth.	Real.
Perkins.	Sturgeon.

Senator Weinert moved to reconsider the vote by which the amendment was adopted.

Senator Senter made a point of order on the vote by which the amendment was adopted. He called for a verification of the vote and claimed that Senator Hayter was paired with Senator Real, and had forgotten to announce the pair, etc.

The Chair (Senator Veale) overruled the point of order, stating that the vote had been declared before the question was raised.

Senator Harper made a point of order on the motion to reconsider, in view of the fact that the previous question had already been ordered on the final passage of the bill.

The Chair (Senator Veale) overruled the point of order.

Action then recurred on the motion to reconsider the vote by which the amendment was adopted, which motion was adopted by the following vote:

Yeas—17.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Hayter.	Senter.
Hudspeth.	Stokes.
Hume.	Terrell of McLennan.
Kellie.	Watson.
Masterson.	Weinert.
Murray.	

Nays—11.

Bryan.	Meachum.
Cofer.	Terrell of Bowie.
Greer.	Thomas.
Harper.	Veale.
Holsey.	Ward.
Mayfield.	

Absent.

Real.	Willacy.
Sturgeon.	

Action then recurred on the amendment by Senator Holsey, which was lost by the following vote:

Yeas—15.

Alexander.	Meachum.
Brachfield.	Perkins.
Bryan.	Stokes.
Cofer.	Terrell of Bowie.
Greer.	Thomas.
Harper.	Veale.
Holsey.	Ward.
Mayfield.	

Nays—12.

Adams.	Paulus.
Hudspeth.	Peeler.
Hume.	Senter.
Kellie.	Terrell of McLennan.
Masterson.	Watson.
Murray.	Weinert.

Absent.

Sturgeon.	Willacy.
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PAIRED.

Senator Hayter (present), who would vote "yea," with Senator Real (absent), who would vote "nay."

Senator Holsey then moved to reconsider the vote by which the bill was ordered engrossed.

Senator Harper made a point of order

that the previous question had been ordered on the final passage of the bill.

The Chair (Senator Veale) overruled the point of order.

Action then recurred on the motion to reconsider the vote by which the bill was ordered engrossed, and the motion was lost by the following vote:

Yeas—11.

Bryan.	Meachum.
Cofer.	Stokes.
Greer.	Terrell of Bowie.
Harper.	Thomas.
Holsey.	Ward.
Mayfield.	

Nays—16.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Hudspeth.	Senter.
Hume.	Terrell of McLennan.
Kellie.	Veale.
Masterson.	Watson.
Murray.	Weinert.

Absent.

Sturgeon. Willacy.

PAIRED.

Senator Hayter (present), who would vote "yea," with Senator Real (absent), who would vote "nay."

The bill was read third time, and passed by the following vote:

Yeas—27.

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Meachum.	

Absent.

Sturgeon. Willacy.

PAIRED.

Senator Hayter (present), who would vote "yea," with Senator Real (absent), who would vote "nay."

Senator Terrell of McLennan moved to reconsider the vote by which the bill

was passed, and lay that motion on the table.

The motion to table prevailed.

REASONS FOR VOTING.

This bill recognizes the Democratic doctrine of individual liability for private debt, which must ultimately become the pillar of any system for the guaranty of bank deposits. It avoids the false pretense of a guaranty of deposits by the State, which is intolerable. While we do not approve any plan which would bring the banks into co-partnership of any sort, we vote for this bill as the only available measure for the guaranty of deposits which does not contain the obnoxious provisions of the Love or Cureton bill and to prevent the passage of a bill tending to build up a despotic and dangerous political machine, to unsettle business conditions, and to imperil the prosperity of the State.

Senter, Hume, Masterson, Weinert, Adams, Peeler, Paulus, Hudspeth, Watson, Kellie, Murray.

I vote for the passage of Senate bill No. 4 for the reason that I strongly believe in the passage of a bank guaranty law, and feel confident that this bill will be so amended in the House as to conform to the wishes and meet the needs of the people of this State, and in the hope the Senate will concur in the amendment. In the present form I do not believe that the bill will either meet the wishes of the people or their necessities, for the reason that it does not provide an adequate fund for the safe and sure protection of deposits, and I think this can be easily demonstrated. Indeed, in view of the inadequacy of the protection afforded by the bill to depositors and the ease with which those bankers, who will be in competition with the State bankers, can show to the public that their deposits in guaranty fund banks will not be fully or certainly protected against loss, I believe that the bill is all that any opponent of the guaranty of bank deposits could wish to see enacted, provided any bill for the guaranty of bank deposits is to be passed. I wish to call attention to the following obvious defects in the bill:

Section 4 of the bill provides that the fund shall be created by each bank, within sixty days after the act takes effect, paying in 1 per cent of its daily average non-interest-bearing deposits "for the preceding year," and that an-

nually after the first payment each bank and trust company subject to the provisions of the act shall pay one-fourth of 1 per cent of its daily average deposits until the sum of \$2,000,000 shall be created in such fund.

This would create a fund at the beginning of approximately \$250,000, if all the State banks went into the guaranty fund plan, and this would be increased by one-fourth of that amount each year thereafter if there were no losses to be paid out of the fund. The experience of the national banks of Texas as shown by the Comptrollers' report, since they were established in 1866, shows that the average annual loss to the depositors has equalled about thirteen hundredths of 1 per cent of the average annual deposits; but while this has been the average, during many of the years it has amounted to much more than this; for instance, for the years 1866 to 1877, inclusive, there was no loss to depositors in any closed banks in Texas, but during the year 1878 the losses amounted to 3 per cent of the average deposits that year. If such losses should occur any year after this bill takes effect it would completely wipe out the fund provided by this bill, and the bill does not provide for any method by which it can be recuperated thereafter, except at the rate of one-fourth of 1 per cent of the average deposits each year. If the bill was passed all the national bankers of the State would have to do to keep State banks from going into the system would be to point out this obvious fact, and after a State bank had gone into the system, all that its national bank competitors across the street would have to do to destroy any benefit to the State bank from the system would be to point to this fact. It may be said that this limit of percentage of losses will never be reached again in Texas, and this is in all likelihood true, but the records also show that after 1878 there were no losses to depositors in national banks in Texas any year until 1891, in which year they amounted to thirty-seven hundredths of 1 per cent, or about \$100,000 in the aggregate, and in 1892 they amounted to fourteen hundredths of 1 per cent, or about \$44,000 in the aggregate; and in the next year, 1893, they amounted to seventy-four hundredths of 1 per cent, or about \$200,000 in the aggregate; so that a recurrence of the experiences of these three years would entirely wipe out the fund provided by this bill, and would render it impossible, under the system prescribed, for

the fund to be recuperated so as to be of any service to the banks taking advantage of it; that is, it would leave the guaranty fund banks without any guaranty fund.

Again, this record shows that during the year 1895 alone the loss to depositors during that year in the national banks of Texas amounted to one and twenty-five one hundredths per cent of the average deposits during that year, and aggregated in amount to \$388,000. The recurrence of this sort of a year in Texas, which occurred only thirteen years ago would wipe out the entire fund.

If the fund is arranged as provided in the Greer-Meachum bill the average expense to the banks during a number of years would be as small and inconsequential as under this bill or any possible plan, and yet by providing for additional assessment within the limit of 2 per cent of the average annual deposits it guarantees the payment out of the guaranty fund of all deposits, unless the loss to depositors in the State banks of Texas for some years should exceed the highest percentage of the average deposits in banks ever known in the forty years' experience of the national banks of Texas. The Greer-Meachum provision does not require that this amount shall be taken out of the banks or that any more, or even as much shall be taken out of each bank, as the Alexander bill, but by providing that it may be collected, makes certain and sure provisions for the payment of all depositors in full.

Again, this bill provides that there shall be no further payments made after the fund reached the sum of \$2,000,000, which would permit all banks thereafter forced to come into the plan without contributing a penny, upon absolute equality with those which have contributed the two million.

Again, instead of providing for an annual readjustment of this fund in accordance with the increase or decrease of the amount of each bank's liability to depositors, resulting from the increase or decrease of the amount of its deposits, it provides for the fixed 1 per cent, originally paid in and one-fourth of 1 per cent annually thereafter. This would permit one bank which originally went into the plan within sixty days after the act took effect, with \$100,000 deposits to get the same benefit year after year thereafter, though its deposits increased to a million dollars, as would another bank which originally

went into the plan with \$100,000 deposits, whose deposits might thereafter decrease to \$50,000 so far as the original payment is concerned.

Again, Section 6 of the act provides that banks hereafter incorporated shall pay into the guaranty fund 2 per cent of the amount of their capital stock, "which shall constitute a credit fund subject to the adjustment on the basis of their deposits, as provided for other banks now existing at the end of one year." It is not clear whether this means at the end of the year they shall pay 1 per cent of their annual deposits or one-fourth of 1 per cent or $1\frac{1}{4}$ per cent into the guaranty fund.

Again, Section 4 of the act provides that all banks in existence at the time the act takes effect shall pay into the fund 1 per cent of its daily average

non-interest-bearing deposits for the preceding year, at least one-fourth of the 450 State banks now in existence will not have been in business one year preceding the time this act takes effect, and no provision is made for all of these cases. There have been about 100 State banks formed within the past four months.

I attach hereto, to illustrate my objections, a table showing the number of national banks in Texas each year from 1886 to 1906, inclusive; the number closed, claims proven, dividends paid, and losses to depositors in each bank closed; the total deposits in all national banks in the State for each year, and the ratio of losses to depositors to amount of total deposits for each year.

HARPER.

Table Showing the Number of National Banks in Texas; the National Banks Closed, the Claims Proven, Dividends Paid, Percentage of Dividends Paid, and Loss to Depositors in Each National Bank Closed; the Total Deposits in all National Banks, and the Ratio of Loss to Depositors to Total Deposits for Forty-one Years, From 1866 to 1906, inclusive.

	Year.	Number of banks in State.	Banks closed.	Claims proved.	Dividends paid.	Dividends per cent.	Total loss paid to depositors.	Total deposits.	Percentage of loss to depositors.
	1866	4						\$ 626,000	
	1867	4						495,000	
	1868	4						634,000	
	1869	4						562,000	
	1870	4						617,000	
	1871	5						1,006,000	
	1872	5						806,000	
	1873	7						1,044,000	
	1874	9						1,038,000	
	1875	10						1,081,000	
	1876	10						1,174,000	
	1877	12						1,413,000	
First National Bank, Dallas.....	1878	11	1	\$ 77,104	\$ 29,377	38.10	\$ 47,727	1,516,000	.03
	1879	11						1,604,000	
	1880	13						2,031,000	
	1881	15						3,691,000	
	1882	21						5,487,000	
	1883	43						8,003,000	
	1884	49						7,928,000	
	1885	68						9,184,000	
	1886	74						11,647,000	
Henrietta National Bank, Henrietta.....	1887	91	1	82,150	80,442	100.00		13,710,000	
	1888	100						15,786,000	
	1889	127						21,452,000	
	1890	139						30,450,000	
Ninth National Bank, Dallas.....	1891	206	2	108,694	49,002	45.00	59,892	26,072,000	
Rio Grande National Bank, Laredo.....				59,331	21,927	37.00	37,404		.0037
Bell County National Bank, Temple.....	1892	223	2	40,177	32,323	70.00	12,854	32,065,000	
First National Bank, Rockwall.....				45,664	19,983	35.00	29,681		.0014
Bankers and Merchants National, Dallas.....	1893	222	6	122,635	72,671	61.40	50,014	25,748,000	
First National Bank, Brady.....				34,489	34,489	100.00			
City National Bank, Brownwood.....									
Texas National Bank, San Antonio.....				93,853	47,054	50.00	46,799		
First National Bank, Vernon.....				96,538	50,618	52.50	45,920		
El Paso National Bank, El Paso.....				175,360	127,617	74.50	47,743		.0074
First National Bank, Llano.....	1894	217	3	30,319	15,065	51.80	14,654	30,181,000	
State National Bank, Vernon.....				50,571	20,934	41.50	29,537		
City National Bank, Quanah.....				136,485	56,804	41.80	79,681		.0041
First National Bank, Texarkana.....	1895	214	3	36,429	37,249	100.00		33,253,000	

City National Bank, Fort Worth				491,071	198,578	40.00	292,493	
First National Bank, Dublin				5,936	4,817	100.00		.0058
National Bank of Jefferson, Jefferson	1896	207	4	167,778	160,122	96.90	7,656	30,553,000
City National Bank, Tyler				168,471	48,633	30.00	129,838	
First National Bank, Tyler				407,692	155,630	50.00	252,062	
Citizens' National, San Angelo				43,524	37,042	91.00	5,482	
City National Bank, Gatesville	1897	201	1	12,262	13,335	100.00		84,872,000
	1898	196						37,865,000
	1899	199						44,266,000
	1900	223						49,749,000
First National Bank, Austin	1901	284	1					74,805,000
	1902	339						74,042,000
Citizens National Bank, Beaumont	1903	369	2	277,116	257,688	93.00	19,428	
Groesbeck National, Groesbeck				119,216	48,271	55.00	70,945	71,382,000
Citizens National Bank, McGregor	1904	414	1	61,088	60,231	98.00	1,857	87,537,000
American National Bank, Abilene	1905	440	2	171,017	83,230	50.00	87,787	
First National Bank, Nederland				6,780	3,390	50.00	3,390	101,285,000
First National Bank, West	1906	483	1	68,563	43,097	50.00	43,466	116,331,000
Totals				\$ 3,214,749	\$ 1,812,625		\$ 1,302,473	

Average annual deposit, 1866-1906, \$24,709,098.
Average annual loss to depositors, 1866-1906, \$31,857.
Average annual loss per cent to depositors, 1866-1906, .0013.

I vote for the Mayfield amendment because I think the banking board should be composed of business men instead of politicians. Furthermore, the inclusion of the Lieutenant Governor as a member of this board, if not contrary to the Constitution, at least violates the wise policy of the Constitution in providing a presiding officer for the Senate who has no executive duties to perform, and is an improper intermingling of executive and legislative duties in the same officer contrary to the spirit if not the letter of the Constitution. It would be most unwise, improper and impolitic for a member of the banking board to be presiding over the Senate.

COFER.

HOUSE BILL NO. 17—FREE CONFERENCE COMMITTEE ON.

Senator Alexander here called up the request of the House (See House message of yesterday for request) for a Free Conference Committee on House bill No. 17, and moved that the request be granted.

The motion prevailed, and the Chair, Lieutenant Governor Davidson, appointed the following as the Free Conference Committee: Senators Alexander, Harper, Terrell of Bowie, Weinert, Willacy.

SENATE BILL NO. 35.

The Chair laid before the Senate on second reading and regular order,

Senate bill No. 35, A bill to be entitled "An Act amending Section 8 of an act passed at the First Called Session of the Thirty-first Legislature of the State of Texas, entitled 'An Act defining and regulating fraternal beneficiary associations, and repealing Chapter 115 of the General Laws of the Twenty-sixth Legislature of the State of Texas as amended by Chapter 86 of the General Laws of the Twenty-seventh Legislature and by Chapter 113 of the General Laws of the Twenty-eighth Legislature and by Chapter 106 of the General Laws of the Twenty-ninth Legislature, and declaring an emergency.'"

Bill read second time, and ordered engrossed.

On motion of Senator Terrell of Bowie, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its

third reading and final passage by the following vote:

Yeas—21.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Cofer.	Senter.
Hayter.	Terrell of Bowie.
Holsey.	Thomas.
Hudspeth.	Veale.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Murray.	

Absent.

Bryan.	Real.
Greer.	Stokes.
Harper.	Sturgeon.
Mayfield.	Terrell of McLennan.
Meachum.	Willacy.

The bill was read third time, and passed by the following vote:

Yeas—23.

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Senter.
Harper.	Terrell of Bowie.
Hayter.	Terrell of
Holsey.	McLennan.
Hudspeth.	Veale.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.

Absent.

Greer.	Stokes.
Mayfield.	Sturgeon.
Meachum.	Thomas.
Real.	Willacy.

Senator Terrell of Bowie moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

ADJOURNMENT.

On motion of Senator Hayter, the Senate, at 6:30 o'clock, adjourned until tomorrow morning at 10 o'clock.

APPENDIX.

COMMITTEE REPORTS.

(Floor Report.)

Austin, Texas, April 28, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred

House bill No. 14, A bill to be entitled "An Act to grant a new charter to the city of Amarillo, Potter county, Texas, repealing all laws or parts of laws in conflict herewith, and declaring an emergency,"

Have had the same under consideration, and we beg to report it back to the Senate, with the recommendation that it do pass and be not printed.

Senter, Chairman; Cofer, Hume, Terrell of McLennan, Willacy, Masterson, Holsey.

Committee Room,

Austin, Texas, April 28, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 12, A bill to be entitled "An Act to amend Sections 4, 8 and 10, and to repeal Section 9 of Chapter 137 of the General Laws of the Thirtieth Legislature, page 254, entitled 'An Act changing the official title of the State Fish and Oyster Commissioner to Game, Fish and Oyster Commissioner; providing for his salary and fixing his additional powers and duties; providing for a hunting license for non-resident hunters; providing that funds received from the sale of hunting licenses and fines received from prosecutions for a violation of the game and bird laws shall be used only for the protection and propagation of birds and game; and all the salaries and expenses provided by this act; and providing for the enforcement of the game and bird laws of this State, and providing penalties for the violation thereof;' prescribing duties of the Game, Fish and Oyster Commissioner and his deputies; providing for collection and disposition of fines and license fees; prohibiting hunting without license; providing that county clerks shall issue hunting licenses; providing fees, requiring reports and establishing duties

of commissioners, clerks and comptroller, and declaring an emergency."

And find the same correctly engrossed.
WARD, Chairman.

Committee Room,

Austin, Texas, April 29, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 38, A bill to be entitled "An Act to create a more efficient road system for Wood county, Texas, and making the county commissioners of said county ex-officio road commissioners, and prescribing their duties as such and providing for their compensation as such road commissioners, and providing for the working of county convicts upon public roads of said county, and the fees of officers in such cases, and providing for the amount of time overseers shall allow road hands for their teams and road work, and providing for the payment of \$5.00 in lieu of road service; and providing for the working of delinquent poll tax payers on the public roads; providing for condemnation of land for public road purposes; and providing, further, making this law cumulative of the General Laws, and in case of a conflict this act to govern as to Wood county, Texas, and declaring an emergency."

And find the same correctly engrossed.
WARD, Chairman.

THIRTEENTH DAY.

Senate Chamber,

Austin, Texas,

Friday, April 30, 1909.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

The roll was called, a quorum being present, the following Senators answering to their names:

Adams.
Alexander.
Brachfield.
Cofer.
Greer.
Harper.
Hayter.
Holsey.
Hudspeth.
Hume.
Kellie.

Masterson.
Mayfield.
Murray.
Paulus.
Peeler.
Perkins.
Senter.
Stokes.
Terrell of McLennan.
Thomas.
Veale.